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OFFICE OF THE FEDERAL REGISTER

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OFFICE OF THE FEDERAL REGISTER

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4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, July 9, 2013
9 a.m.–12:30 p.m.

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

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Reader Aids

Consult the Reader Aids section at the end of this page for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 58

RIN 0581–AD25

[Doc. No. AMS–DA–10–0002]

Increase in Fees for Voluntary Federal Dairy Grading and Inspection Services

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule increases the fees for voluntary Federal dairy grading and inspection services. The fees will increase 10 percent effective August 2013 and an additional 10 percent effective February 2014. The fees applicable to European Union Health Certification Program derogation requests are unchanged. Dairy grading and inspection services are voluntary and are financed in their entirety through user fees assessed to participants using the program. Despite the adoption of technologies that have improved services, additional changes in operations that enhanced efficiencies, and reduced employee numbers, increases in salaries, technology investments, and general inflation have more than offset savings resulting in the need to increase fees. AMS estimates the fee increase will result in an overall cost increase to the industry of less than $0.0004 per pound of dairy product graded.

DATES: *Effective:* August 1, 2013.

FOR FURTHER INFORMATION CONTACT: Diane Lewis, Director, Grading and Standards Division, Dairy Programs, Agricultural Marketing Service, U.S. Department of Agriculture, Stop 0225, Room 2968—South, 1400 Independence Avenue SW., Washington, DC 20250–0225, or call (202) 720–4392.

SUPPLEMENTARY INFORMATION:

Executive Orders 12866 and 12988

This rule has been determined to be "not significant" for purposes of Executive Order 12866, and therefore, has not been reviewed by the Office of Management and Budget (OMB).

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not retroactive. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Regulatory Flexibility Act and Paperwork Reduction Act

Pursuant to the requirement set forth in the Regulatory Flexibility Act (5 U.S.C. 601–612), AMS has considered the economic impact of this action on small entities. It has been determined that its provisions would not have a significant economic effect on a substantial number of small entities. For the purpose of the Regulatory Flexibility Act, a dairy products manufacturer is a "small business" if it has fewer than 500 employees. If a plant is part of a larger company operating multiple plants that collectively exceed the 500 employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees.

Under the Agricultural Marketing Act of 1946, as amended, (AMA) (7 U.S.C. 1621–1627), the Dairy Grading and Inspection Branch, AMS, provides voluntary Federal inspection and dairy product grading services to about 360 plants. An estimated 345 of these users are small businesses under the criteria established by the Small Business Administration (13 CFR 121.201).

This rule will raise the fees charged to businesses for voluntary plant inspections, grading services for dairy, and related products. This rule will not raise fees applicable to the European Union Health Certification Program derogation process. These actions will equally affect all businesses that use these services. Dairy processing plants participating in the voluntary plant inspection program have their facility inspected against established USDA "General Specifications for Dairy Plants Approved for USDA Inspection and Grading Service" construction and sanitation requirements. Businesses are under no obligation to use these voluntary user-fee based services and any decision on their part to discontinue the use of the services would not prevent them from marketing their products. It is estimated that the fee increases will result in an increase to plants of $0.0004 per pound of graded product. Therefore, AMS has determined that this rule will not have a significant economic impact on small businesses.

A review of reporting requirements was completed under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The review determined that this rule would have no impact on reporting, recordkeeping, or other compliance requirements for entities currently using voluntary Federal dairy inspection and grading services because they would remain identical to the current requirements.

This action does not request additional information collection that requires clearance by OMB. The primary sources of data used to complete the forms are routinely used in most business transactions. Forms require only a minimal amount of information which can be supplied without data processing equipment or a trained statistical staff. Thus, the information collection and reporting burden is small. Requiring the same information from all participating dairy plants does not significantly disadvantage any plant that is smaller than the industry average.

Description of Program

Plants participating in the voluntary AMS Dairy Grading and Inspection Program process milk into dairy foods that enter commerce as retail products, ingredients for further processing, purchases for Federal food assistance programs, or exports to other countries. Services provided by the program enhance the marketability and add value to dairy and dairy-containing foods. Dairy products manufactured in facilities complying with the USDA inspection requirements are eligible to be graded against official quality standards and specifications established by AMS and certain contract provisions between buyer and seller. Dairy products tested and graded by AMS have certificates issued describing the product's quality and condition.

AMS continually reviews cost structures to assure it is operating efficiently while maintaining the resources necessary to meet the dairy industry's demand for services.

Periodically, fees must be adjusted to ensure that the program remains financially self-supporting. The AMS Dairy Grading and Inspection Program has made great efforts to reduce the costs associated with providing grading and inspection services since the last fee increase in 2006 (71 FR 60805). Cost-saving initiatives to date have resulted in substantial gains in the efficiency of service delivery. In 2006, total costs for the program were $5.2 million to grade and certify 1.5 billion pounds of dairy products—a per pound cost of $0.0035. In 2011, the program's total costs were $5.3 million to grade and certify 2.0 billion pounds of dairy products—a per pound cost of product certified of $0.0026, a 25 percent improvement in efficiency. Further enhancements will continue to improve the efficiency, quality, and timeliness of providing inspection and grading services.

In an effort to minimize the costs associated with managing its workforce, the Dairy Grading and Inspection Program has restructured. The number of administrative personnel has been reduced from 14 full time employees to 5 resulting in annual savings of over $400,000. The National Field Office, located in the suburbs of Chicago, co-located with other USDA offices in Lisle, Illinois, saving about $32,000 annually. One supervisor and one training position were eliminated allowing about $170,000 to be redirected to cover cost increases for additional grading staff needed to provide requested services. In addition, system automation has resulted in improved customer service with less staff involvement, especially in the delivery of export certificates. Advances in electronic submissions and deliveries allowed nearly 20,000 export certificates to be issued with only 2 staff positions during FY 2011.

Although significant effort has been directed at reducing expenses, savings from these efforts have not offset increasing operating expenses incurred over the past 6 years. Consequently, existing fee rates are no longer adequate to cover current obligations. The program is depleting reserve funds at a rate that jeopardizes its ability to ensure effective delivery of services to meet industry needs. Fees must be adjusted to cover current and projected operating costs.

The Secretary of Agriculture is authorized by the AMA to provide voluntary Federal dairy inspection and grading services to facilitate the orderly marketing of dairy products and to enable consumers to obtain the quality of dairy products they desire. The AMA also provides for the collection of reasonable fees from users of the Federal dairy inspection and grading services to cover the cost of providing these services. AMS establishes hourly fees by distributing the program's projected operating costs over the estimated service-revenue hours provided to users. AMS continually reviews its cost structure to assure it is operating efficiently while maintaining the resources necessary to meet the dairy industry's demand for services. Periodically, fees must be adjusted to ensure that the program remains financially self-supporting.

As part of its financially self-supporting status, agency requirements necessitate that the program maintain a reserve trust fund with a minimum of 4 months of operating funds to account for program closure or an unexpected decrease in revenues. Since revenues have not covered program costs for several years, the trust fund has gradually been depleted. The fund first dipped below its mandated 4-month reserve level in FY 2010. Without a fee increase, the AMS Dairy Grading and Inspection Branch will be put in an unstable financial position that will adversely affect the ability to provide dairy inspection and grading services.

In an effort to reduce costs and delay depletion of reserve funds, AMS has continued to automate its business practices, consolidate facilities, limit personnel, and implement other efficiencies. As detailed earlier, progress to date for the AMS Dairy Grading and Inspection Program has been significant and has resulted in decreasing costs per pound of graded product from $0.0035 to $0.0026. This is equivalent to a savings of approximately $816,000 on every one billion pounds of product graded. Further enhancements in automated business practices will continue to improve the efficiency and timeliness of providing inspection and grading services as well as information to users of these services.

Discussion of Comments

On January 17, 2013, the USDA published a Proposed Rule (78 FR 3851) to increase the user fees for voluntary Federal plant inspections and dairy product grading services. The Proposed Rule included a 15 percent increase in user-fees for dairy grading beginning in February 2013, and an additional 5 percent increase beginning in October 2013. Comments were due on or before February 19, 2013.

Six comments were received: One from a federation of dairy cooperative associations, two from dairy manufacturer associations, one from a non-profit trade organization and two from individuals.

One of the comments received from an individual expressed opposition to the proposed fee increase. The comment explained how adoption of the proposed fee increase would increase prices to consumers, increase employee workload, and exempt larger plants from the grading program.

The Dairy Grading and Inspection Program is voluntary. Plants who utilize the program do so in order to prove to their customers and to consumers that their product has been certified by the USDA to meet certain standards. The program is utilized by both small and large businesses. USDA estimates that the increased costs to dairy manufacturing plants resulting from the proposed fee increase for grading and inspection services to be negligible $0.0004 per pound of product graded.

Two of the comments supported the fee increase as proposed by USDA. Both comments stated that a fee increase is justified since the program has not increased fees since 2006. They also expressed how a decline in grading services from insufficient revenue would be harmful to the dairy industry, and ultimately to consumers.

Three comments supported a fee increase for the Dairy Grading and Inspection Program, but proposed a more gradual phase in. The comments stated that it is reasonable that the fee-for-service program occasionally increase its fees to cover costs in order to avoid service reductions. They also acknowledged the increased efficiencies that the Dairy Grading and Inspection Program has already achieved.

Two of these comments described how the proposed increase to grading and inspection fees would be a significant burden on dairy product manufacturers since it would increase grading fees by 20 percent in less than one year. The comments explained that grading and inspection fees are usually negotiated into sales contracts, and that these contracts are typically negotiated months in advance, thus manufacturers would have to renegotiate contracts to reflect the higher grading fee. The comments argued that this would place an undue financial burden on dairy product manufacturers who utilize the grading program. Alternatively, the comments proposed a three-part fee increase of 8 percent starting October 2013, an additional 6 percent in October 2014, and an additional 6 percent in October 2015.

The additional comment proposed that the fee increase not be implemented until October 2014, and at a lower level of 5 percent in the first year. The

comment described how a longer phase-in of smaller increments would be less disruptive to the industry and consumers. The comment explained that Federal grading and inspection of dairy products can be required as part of sales agreements with customers. The comment also stated that many dairy manufacturers have no mechanism for recouping the increased grading fee from customers.

The suggested revisions to the fee increase schedule and implementation date provided by commenters led the USDA to further review the fee structure, taking into consideration the commenters concerns, as well as the budgetary realities faced by the Dairy Grading and Inspection Program. As a result of the analysis, this final rule adopts provisions that are modified from those in the proposed rule. The proposed rule provided for a 15 percent fee increase beginning in February 2013, and an additional 5 percent fee increase beginning in October 2013. This would have applied to all grading services, including EU health certification program derogation requests. This final rule, however, includes a two-part incremental fee increase consisting of a 10 percent increase beginning in August 2013, which is seven months later than initially proposed, with an additional 10 percent increase beginning in February 2014.

Two of the comments also stated that the fee increase should not apply to the standard two-hours of non-resident service per European Union (EU) Health Certification Program derogation for somatic cell count and standard plate count. They explained how users of the EU Health Certification Program have invested significant resources to streamline the application process by creating electronic transfer programs to apply for derogations as a group. The comments explained how these systems should have already reduced USDA's processing time to less than two-hours per derogation, and requested that USDA examine its current cost structure for derogations to see if the rate could be reduced.

Beginning January 1, 2012, the U.S. dairy industry began transitioning to a farm level milk sampling program to verify somatic cell count and standard plate count compliance with EU regulations for products exported to the EU. Currently, the EU maximum SCC level is 400,000 and the U.S. SCC standard is 750,000. In an effort to facilitate trade, AMS implemented a derogation program to provide a level of flexibility for farms that exceed EU SCC requirements. Milk from farms granted a derogation can still be manufactured into products that are exported to the EU.

The commenters stated the USDA processing time for derogations has been reduced as a result of the industry developing an electronic transfer program to simultaneously submit a group of derogation applications. While this development may reduce time for the submitter, USDA must unbundle the group submission and individually review each application, resulting in no reduced staff time. Furthermore, now that the derogation program is in its second year applications must be compared with previously submitted applications to ensure that farms are working towards compliance with the EU standard. Upon further review, USDA determined that the current fee is appropriate and as a result, the fee applicable to derogations is unchanged.

Currently, the fees are $63.00 per hour for continuous resident services and $68.00 per hour for non-resident services. The increases outlined in this final rule result in fees of $69.00 per hour for continuous resident services effective August 2013 and $76.00 per hour effective February 2014. The fee for non-resident services between the hours of 6 a.m. and 6 p.m. is $75.00 per hour beginning August 2013 and $82.00 per hour as of February 2014. The fee for non-resident services between the hours of 6 p.m. and 6 a.m. is $82.40 per hour effective August 2013 and $90.20 as of February 2014. For services performed in excess of 8 hours per day and for services performed on Saturday, Sunday, and legal holidays, 1½ times the base fees will apply and result in increases to $104.00 per hour for resident grading beginning August 2013 and $114.00 per hour effective February 2014. Similarly, a fee of $112.40 per hour for non-resident grading services effective August 2013 and $123.00 as of February 2014 also apply. Lastly, a fee of $68.00 per hour at the standard two-hour per derogation application will still apply. The following table summarizes the fee changes:

Service (all rates in dollars per hour)	Current	August 2013	February 2014
Continuous resident services	$63.00	$69.00	$76.00
Non-resident services	68.00	75.00	82.00
Non-resident services 6pm–6am (10 percent night differential)	74.80	82.40	90.20
Continuous resident services—in excess of 8 hours (1½ × base)	94.50	104.00	114.00
Non-resident—in excess of 8 hours (1½ × base)	102.00	112.40	123.00
Derogation Applications	68.00	68.00	68.00

AMS estimates that dairy grading and inspection fees, including the adopted increases, will generate the following revenue (in thousands of dollars): FY 2013 ($6,869); FY 2014 ($7,430); FY 2015 ($7,546); and FY 2016 ($7,342). Program costs are estimated as follows (in thousands of dollars): FY 2013 ($6,051); FY 2014 ($6,459); FY 2015 ($6,536); FY 2016 ($6,615). The additional cost to the industry will still represent less than $0.0004 per pound of product certified as described in the proposed rule. At this increased rate, program analysis estimates that required minimum trust fund reserves will be reached by FY 2015. Based on the above assumption, trust fund reserves are estimated as follows (in thousands of dollars): FY 2013 ($1,385); FY 2014 ($2,356); FY 2015 ($3,366); FY 2016 ($4,093).

List of Subjects in 7 CFR Part 58

Dairy products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

For the reason set forth in the preamble, 7 CFR part 58 is amended as follows:

PART 58—GRADING AND INSPECTION, GENERAL SPECIFICATIONS FOR APPROVED PLANTS AND STANDARDS FOR GRADES OF DAIRY PRODUCTS

■ 1. The authority citation for 7 CFR part 58 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

Subpart A [Amended]

■ 2. Revise § 58.43 to read as follows:

§ 58.43 Fees for inspection, grading, sampling, and certification.

Except as otherwise provided in §§ 58.38 through 58.46 and through the last day of January 2014 inclusive, charges shall be made for inspection, grading, and sampling service at the hourly rate of $75.00 for services performed between 6 a.m. and 6 p.m. and at $82.40 for services performed between 6 p.m. and 6 a.m. for service preformed for the time required to perform the service calculated to the nearest 15-minute period, including the time required for preparation of certificates and reports and the travel time of the inspector or grader in connection with the performance of the service. Starting the first day of February 2014, the hourly rate will be equal to $82.00 for service performed between 6 a.m. and 6 p.m. and $90.20 for services performed between 6 p.m. and 6 a.m. calculated in the same manner. A minimum charge of one-half hour shall be made for service pursuant to each request or certificate issued. Charges for service performed in excess of the assigned tour of duty shall be made at a rate of 1½ times the rate stated in this section. The hourly rate for work regarding compliance with European Union Health Certification Program derogation applications and/or review shall be assessed at $68.00.

■ 3. Revise § 58.45 to read as follows:

§ 58.45 Fees for continuous resident services.

Irrespective of the fees and charges provided in §§ 58.39 and 58.43, charges for the inspector(s) and grader(s) assigned to a continuous resident program shall be made at the rate of $69.00 per hour for services performed during the assigned tour of duty until the last day of January 2013. Starting the first day of February 2014, the hourly rate shall be assessed at $76.00 for services calculated in the same manner. Charges for service performed in excess of the assigned tour of duty shall be made at a rate of 1½ times the rate stated in this section.

Dated: June 21, 2013

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2013–15331 Filed 6–26–13; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0314; Directorate Identifier 2013–CE–004–AD; Amendment 39–17490; AD 2013–13–02]

RIN 2120–AA64

Airworthiness Directives; B–N Group Ltd. Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all B–N Group Ltd. Models BN–2, BN–2A, BN2A MK. III, BN2A MK. III–2, BN2A MK. III–3, BN–2A–2, BN–2A–20, BN–2A–21, BN–2A–26, BN–2A–27, BN–2A–3, BN–2A–6, BN–2A–8, BN–2A–9, BN–2B–20, BN–2B–21, BN–2B–26, BN–2B–27, BN–2T, and BN–2T–4R 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 inadequate sealing of the fuel filler cap (fuel tank cap) and the fuel filler receptacle (fuel tank opening), which could lead to contaminated fuel and result in in-flight shutdown of the engine. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective August 1, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of August 1, 2013.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* 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 Britten-Norman Aircraft Ltd, Commodore House, Mountbatten Business Centre, Millbrook Road East, Southampton SO15 1HY, United Kingdom; telephone: +44 01983 872511; fax: +44 01983 873246; email: *info@bnaircraft.com;* Internet: *www.britten-norman.com.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

FOR FURTHER INFORMATION CONTACT: Taylor Martin, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4138; fax: (816) 329–4090; email: *taylor.martin@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on April 9, 2013 (78 FR 21072). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> Preliminary investigations into a recent engine failure on a BN2 aeroplane have attributed the event to water contaminated fuel. The contamination is suspected to have occurred due to inadequate sealing between a post-mod NB–M–477 fuel filler cap and a pre-mod NB–M–477 fuel filler receptacle. This condition, if not detected and corrected, could lead to fuel water contamination, possibly resulting in in-flight shut down of the engine.
>
> For the reasons described above, this AD requires a one-time inspection of the fuel filler cap and fuel filler receptacle to determine whether they are at the same modification state and, depending on findings, accomplishment of applicable corrective action(s). To mitigate the risk of water contamination pending the installation of matching fuel filler cap and receptacle, this AD also requires daily pre-flight water contamination checks.

You may obtain further information by examining the MCAI in the AD docket.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (78 FR 21072, April 9, 2013) or on the determination of the cost to the public.

Conclusion

We reviewed the relevant data 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 21072, April 9, 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 21072, April 9, 2013).

Costs of Compliance

We estimate that this AD will affect 114 products of U.S. registry. We also estimate that it will take about 1 work-hour 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 the AD on U.S. operators to be $9,690, or $85 per product.

In addition, we estimate that any necessary follow-on actions will take about 1 work-hour and require parts costing $400, for a cost of $485 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify 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 MCAI, 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:

2013–13–02 B–N Group Ltd.: Amendment 39–17490; Docket No. FAA–2013–0314; Directorate Identifier 2013–CE–004–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective August 1, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to B–N Group Ltd. Models BN–2, BN–2A, BN2A MK. III, BN2A MK. III–2, BN2A MK. III–3, BN–2A–2, BN–2A–20, BN–2A–21, BN–2A–26, BN–2A–27, BN–2A–3, BN–2A–6, BN–2A–8, BN–2A–9, BN–2B–20, BN–2B–21, BN–2B–26, BN–2B–27, BN–2T, and BN–2T–4R airplanes, all serial numbers, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 28: Fuel.

(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 inadequate sealing of the fuel filler cap (fuel tank cap) and the fuel filler receptacle (fuel tank opening). We are issuing this AD to prevent, detect, and correct inadequate sealing of the fuel filler cap (fuel tank cap) and the fuel filler receptacle (fuel tank opening), which could lead to contaminated fuel and result in in-flight shutdown of the engine.

(f) Actions and Compliance

Unless already done, do the following actions as specified in paragraphs (f)(1) through (f)(5) of this AD:

(1) Within the next 30 days after August 1, 2013 (the effective date of this AD), inspect the aircraft fuel replenishment points on the top surface of the wings to determine that the fuel filler cap (fuel tank cap) matches the fuel filler receptacle (fuel tank opening) following the instructions of paragraph 6 of Britten-Norman Service Bulletin Number SB 332, Issue 1, dated December 6, 2012.

(2) If a mismatch of the fuel filler cap and the fuel filler receptacle is found during the inspection required by paragraph (f)(1) of this AD, within 3 calendar months after August 1, 2013 (the effective date of this AD), install the correct fuel filler cap to match the fuel filler receptacle installed on the airplane following the instructions of paragraph 6 of Britten-Norman Service Bulletin Number SB 332, Issue 1, dated December 6, 2012.

(3) If a mismatch of the fuel filler cap and the fuel filler receptacle is found during the inspection required by paragraph (f)(1) of this AD, before further flight and thereafter during each daily pre-flight check, do water contamination checks of the gascolators and fuel tank sump drains, including those of the wing tip tanks if installed. This check is in addition to the normal daily checks already required.

(4) The modification required by paragraph (f)(2) of this AD terminates the daily pre-flight water contamination checks as specified in paragraph (f)(3) of this AD.

(5) After August 1, 2013 (the effective date of this AD), do not install on any airplane a fuel filler cap that does not match the fuel filler receptacle and has the correct seal.

(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: Taylor Martin, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4138; fax: (816) 329–4090; email: *taylor.martin@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.: 2012–0270, dated December 20, 2012, for related information, which can be found in the AD docket on the Internet at *http://www.regulations.gov*.

(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) Britten-Norman Service Bulletin Number SB 332, Issue 1, dated December 6, 2012.

(ii) Reserved.

(3) For B–N Group Ltd. service information identified in this AD, contact Britten-Norman Aircraft Ltd, Commodore House, Mountbatten Business Centre, Millbrook Road East, Southampton SO15 1HY, United Kingdom; telephone: +44 01983 872511; fax: +44 01983 873246; email: *info@bnaircraft.com;* Internet: *www.britten-norman.com.*

(4) You may view this service information at 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 June 18, 2013.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–14979 Filed 6–26–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0019; Directorate Identifier 2010–SW–051–AD; Amendment 39–17485; AD 2013–12–07]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Canada Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for Bell Helicopter Textron Canada (BHTC) Model 407 helicopters with certain tailboom assemblies installed. This AD requires, at specified intervals, inspecting the tailboom assembly for a crack, loose rivet, or other damage. This AD was prompted by a stress analysis of the tailboom skin that revealed that high-stress-concentration areas are susceptible to skin cracking. This condition, if not detected, could result in a crack in the tailboom assembly, failure of the tailboom, and subsequent loss of control of the helicopter.

DATES: This AD is effective August 1, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain document listed in this AD as of August 1, 2013.

ADDRESSES: For service information identified in this AD, contact Bell Helicopter Textron Canada Limited, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J1R4; telephone (450) 437–2862 or (800) 363–8023; fax (450) 433–0272; or at *http://www.bellcustomer.com/files/.* 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, 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, Aerospace Engineer, FAA, Regulations and Policy Group, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; fax (817) 222–5110; email *sharon.y.miles@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

Transport Canada, which is the aviation authority for Canada, has issued AD CF–2009–07, dated March 6, 2009 (AD CF–2009–07), to correct an unsafe condition for the BHTC Model 407 helicopters with a tailboom assembly, part number (P/N) 407–030–801–201, –203, or –205. Transport Canada states that a stress analysis of the chemically milled tailboom skin "revealed a possibility of skin cracking due to high stress concentration areas." Transport Canada advises that this condition, if not detected, could result in "serious damage to the tailboom."

On February 1, 2013, at 78 FR 7308, the **Federal Register** published our notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 to include an AD that would apply to BHTC Model 407 helicopters, with tailboom assembly part number (P/N) 407–030–801–201, 407–030–801–203, or 407–030–801–205. The NPRM proposed to require, at specified intervals, inspecting the tailboom assembly for a crack, loose rivet, or other damage. The proposed requirements were intended to prevent a crack in the tailboom assembly, failure of the tailboom, and subsequent 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 7308, February 1, 2013).

FAA's Determination

These helicopters have been approved by the aviation authority of Canada and are approved for operation in the United States. Pursuant to our bilateral agreement with Canada, Transport Canada, its technical representative, has notified us of the unsafe condition described in its AD. We are issuing this AD because we evaluated all information provided by Canada and determined that an 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 Transport Canada AD

The Transport Canada AD states to perform the inspections of the tailboom "in accordance with inspection procedures as per applicable part" of the ASB. This proposed AD references only specific sections of the ASB for accomplishing the requirements.

Related Service Information

BHTC has issued Alert Service Bulletin No. 407–08–84, dated August 18, 2008 (ASB), which specifies a new inspection schedule for the tailboom assemblies. BHTC states it has not received any field reports indicating cracked skin in service on the tailboom assemblies. However, in the interest of

safety, BHTC states it has elected to introduce a new inspection schedule for the tailboom assemblies. The ASB specifies the new inspection schedule. Transport Canada classified this ASB as mandatory and issued AD CF–2009–07 to ensure the continued airworthiness of these helicopters.

Costs of Compliance

We estimate that this AD will affect 551 helicopters of U.S. registry, and estimate the cost of compliance for the first year as follows:

- We assume 1 initial 100-hour TIS inspection and 2 recurring inspections, which will each take about 2.5 hours. At an average labor rate of $85 per hour, this will result in a cost of about $213 per inspection per helicopter or a total annual inspection cost for 3 recurring inspections of about $639 per helicopter.
- We assume 1 initial inspection and thereafter 4 recurring inspections per year for helicopters with a tailboom assembly that has 6,900 or more hours TIS, which will each take 3 hours at the average labor rate of $85 per hour or $255 per helicopter. Multiplying this $255 times the 5 recurring inspections, the total annual cost will be $1,275 per helicopter.
- We assume 1 initial inspection and 12 recurring inspections per year for helicopters with a tailboom assembly that has 8,600 or more hours TIS. If each inspection takes 3.25 hours, at the average labor rate of $85 per hour, each inspection will cost about $276. Multiply $276 times the 13 recurring inspections will result in a total annual inspection cost of $3,588 per helicopter. We expect the cost of pilot checks to be minimal.
- Replacing the tailboom will take 10 work hours at an average labor rate of $85 per hour for a total labor cost of $850 per helicopter. Parts will cost $82,850 for a total cost per helicopter of $83,700. Assuming that 5 helicopters per year will need a replacement tailboom, the fleet replacement cost will total $418,500.

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):

2013–12–07 Bell Helicopter Textron Canada (BHTC): Amendment 39–17485; Docket No. FAA–2013–0019; Directorate Identifier 2010–SW–051–AD.

(a) Applicability

This AD applies to BHTC Model 407 helicopters, with tailboom assembly part number (P/N) 407–030–801–201, 407–030–801–203, or 407–030–801–205, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as high-stress-concentration areas in the tailboom skin that are at risk of cracking. This condition could result in a crack in the tailboom assembly, failure of the tailboom, and subsequent loss of helicopter control.

(c) Effective Date

This AD becomes effective August 1, 2013.

(d) Compliance

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

(e) Required Actions

(1) For helicopters with a tailboom assembly that has 8,600 or more hours time-in-service (TIS):

(i) Comply with either paragraph (e)(1)(i)(A) or (e)(1)(i)(B):

(A) Before the first flight of each day, visually check for a crack in the "C" and "D" areas depicted in Figures 1and 2 to Paragraph (e) of this AD. The actions required by this paragraph may be performed by the owner/operator (pilot) holding at least a private pilot certificate, and must be entered into the aircraft 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, 121.380, or 135.439; or

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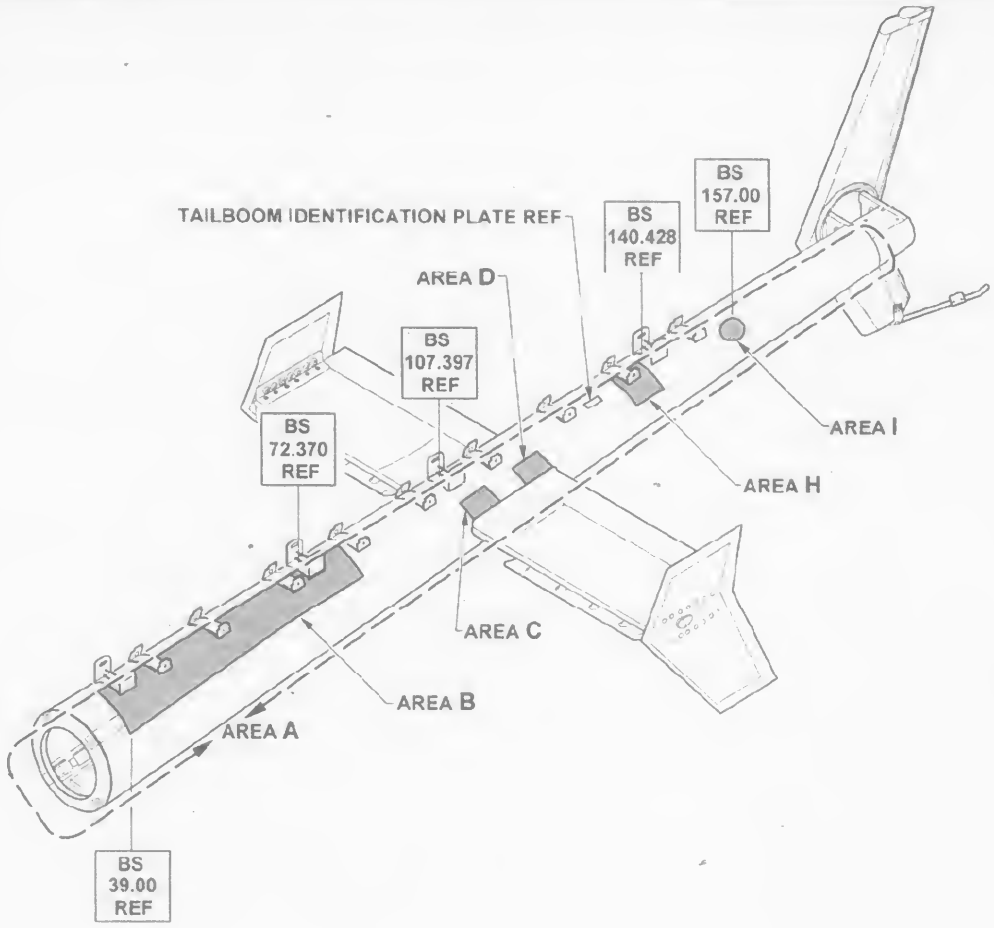

Figure 1 to Paragraph (e)

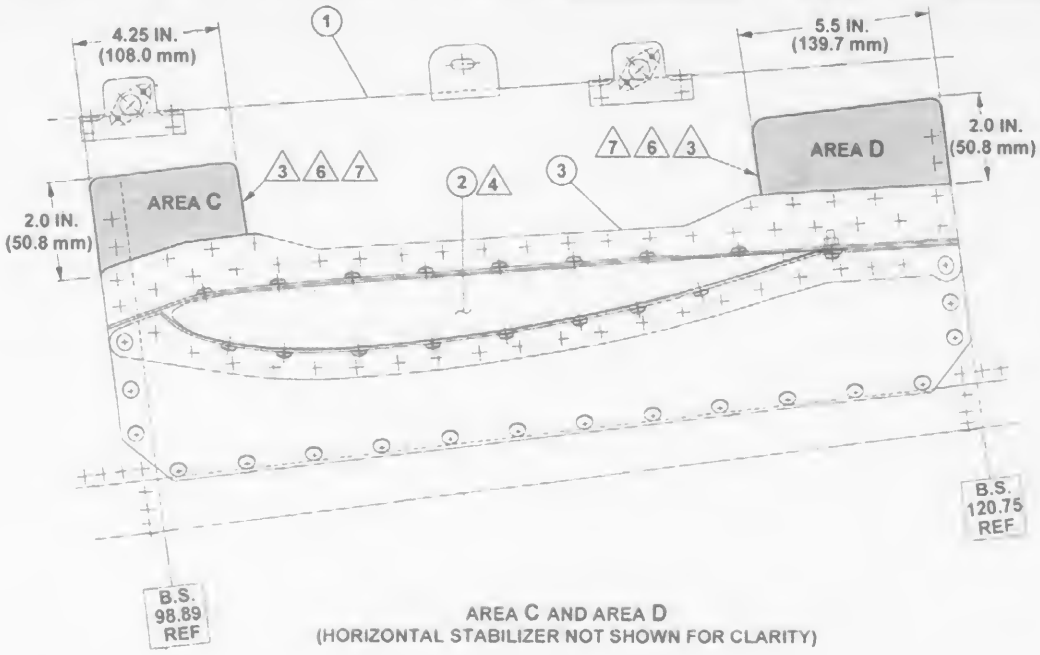

Figure 2 to Paragraph (e)

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(B) Within 25 hours TIS, or 30 days, whichever comes first, and thereafter at intervals not to exceed 50 hours TIS, clean and inspect for a crack around each fastener and just above the edge of the upper stabilizer support in the "C" and "D" areas on the left side of the tailboom assembly, as depicted in Figure 2 to Paragraph (e) of this AD, using a 10X or higher power magnifying glass.

(ii) Comply with the requirements of paragraph (e)(2)(i)(A) or (e)(2)(i)(B), and paragraph (e)(3) of this AD.

(2) For helicopters with a tailboom assembly that has 6,900 or more hours TIS:

(i) Within 25 hours TIS or 30 days, whichever occurs first, clean and inspect the tailboom assembly for a crack in the "H" and "I" areas depicted in Figure 2, Sheet 5, of the BHTC Alert Service Bulletin No. 407–08–84, dated August 18, 2008, (ASB), by using one of the two following methods.

(A) Use a 10X or higher power magnifying glass; thereafter, repeat the 10X or higher power magnifying glass inspection at intervals not to exceed 150 hours TIS; or

(B) Eddy current inspect for a crack in accordance with Appendix A and Table 1, and by referencing Figures 3 through 7 of the ASB; thereafter, repeat the eddy current inspection at intervals not to exceed 500 hours TIS. Use a person qualified to Level II or Level III per the National Aerospace Standard (NAS) 410 or equivalent requirements to perform the eddy current inspection.

(ii) Comply with the requirements of paragraph (e)(3) of this AD.

(3) Within 100 hours TIS or at the next tailboom inspection, whichever comes first, and thereafter at intervals not to exceed 300 hours TIS:

(i) Clean and inspect the tailboom assembly for a loose rivet, a crack, or other damage in accordance with Part II, paragraphs 2 and 3, of the ASB; and

(ii) Using a 10X or higher power magnifying glass, inspect the tailboom assembly for a loose rivet or a crack in accordance with Part II, paragraphs 4 through 6, of the ASB.

(4) If the total accumulated hours TIS on the tailboom assembly is unknown, assume the tailboom assembly has 8,600 or more hours TIS and clean and inspect in accordance with paragraph (e)(1) of this AD.

(5) If there is a crack in the tailboom assembly, before further flight, replace it with an airworthy tailboom assembly.

(f) Special Flight Permits

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished, provided no passenger is on board and any crack or damage is temporarily repaired using FAA-approved procedures.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Sharon Miles, Aerospace Engineer, FAA, Regulations and Policy Group, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; fax (817) 222–5961; 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.

(h) Additional Information

The subject of this AD is addressed in Transport Canada Civil Aviation (TCCA) AD No. CF–2009–07, dated March 6, 2009. You may view the TCCA AD at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–0019.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 5302, rotorcraft tailboom.

(j) 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) Bell Helicopter Textron Canada Alert Service Bulletin No. 407–08–84, dated

August 18, 2008, excluding Figure 2 sheets 1 and 4.

(ii) Reserved.

(3) For BHTC service information identified in this AD, contact Bell Helicopter Textron Canada Limited, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J1R4; telephone (450) 437–2862 or (800) 363–8023; fax (450) 433–0272; or at *http://www.bellcustomer.com/files/*.

(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 June 3, 2013.

Kim Smith,

Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2013–14857 Filed 6–26–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0205; Directorate Identifier 2012–NM–226–AD; Amendment 39–17493; AD 2013–13–05]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all The Boeing Company Model 747SP series airplanes, and certain The Boeing Company Model 747–100B SUD and 747–300 series airplanes. This AD was prompted by an evaluation by the design approval holder indicating that the fuselage skin just above certain lap splice locations is subject to widespread fatigue damage. This AD requires repetitive inspections for cracking of the fuselage skin above certain lap splice locations, and repair if necessary. We are issuing this AD to detect and correct fatigue cracking of the fuselage skin, which could result in reduced structural integrity of the airplane and sudden loss of cabin pressure.

DATES: This AD is effective August 1, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of August 1, 2013.

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

Examining the AD Docket

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

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM published in the **Federal Register** on March 7, 2013 (78 FR 14719). That NPRM proposed to require repetitive inspections for cracking of the fuselage skin above certain lap splice locations, and repair if necessary.

Comments

We gave the public the opportunity to participate in developing this AD. We have considered the comment received. Boeing supported the NPRM (78 FR 14719, March 7, 2013).

Conclusion

We reviewed the relevant data, considered the comment 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 14719, March 7, 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 14719, March 7, 2013).

Costs of Compliance

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

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	Up to 57 work-hours × $85 per hour = $4,845, per inspection cycle.	$0	Up to $4,845, per inspection cycle.	Up to $19,380, per inspection cycle.

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

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in Subtitle VII,

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–13–05 The Boeing Company: Amendment 39–17493; Docket No. FAA–2013–0205; Directorate Identifier 2012–NM–226–AD.

(a) Effective Date

This AD is effective August 1, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company airplanes, certificated in any category, identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD.

(1) All Model 747SP airplanes.

(2) Model 747–100B SUD airplanes, line numbers 636 and 655.

(3) Model 747–300 airplanes, line numbers 692 through 695 inclusive.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by an evaluation by the design approval holder indicating that the fuselage skin just above certain lap splice locations is subject to widespread fatigue damage. We are issuing this AD to detect and correct fatigue cracking of the fuselage skin, which could result in reduced structural integrity of the airplane and sudden loss of cabin pressure.

(f) Compliance

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

(g) Repetitive Inspections

Perform external sliding probe eddy current inspections of the fuselage skin for cracking, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2854, dated September 17, 2012, except where this service bulletin specifies to contact Boeing for inspection instructions, this AD requires doing the inspection using a method approved in accordance with the procedures specified in paragraph (h) of this AD. Do the inspection at the applicable initial compliance time specified in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 747–53A2854, dated September 17, 2012, except that where this service bulletin specifies a compliance time after the "original issue date of this service bulletin," this AD requires compliance within the specified compliance time after the effective date of this AD.

(1) If no cracking is found during any inspection required by paragraph (g) of this AD, repeat the inspection thereafter at the applicable intervals specified in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 747–53A2854, dated September 17, 2012.

(2) If any cracking is found during any inspection required by paragraph (g) of this AD: Before further flight, repair the cracking using a method approved in accordance with the procedures specified in paragraph (h) of this AD.

(h) 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 the Related Information section 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.

(i) Related Information

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

(j) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 747–53A2854, dated September 17, 2012.

(ii) Reserved.

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

(4) You may review 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 June 12, 2013.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–15179 Filed 6–26–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1052; Directorate Identifier 2012–CE–014–AD; Amendment 39–17471; AD 2013–11–11]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding AD 2000–04–01 that applies to certain Cessna Aircraft Company (Cessna) Models 172R, 172S, 182S, 182T, T182T, 206H, and T206H airplanes. AD 2000–04–01 currently requires an inspection of the engine oil pressure switch and, if applicable, replacement of the engine oil pressure switch. This AD increases the applicability of the AD, places a life-limit of 3,000 hours time-in-service on the engine oil pressure switch, and requires replacement when the engine oil pressure switch reaches its life limit. This AD was prompted by new reports of internal failure of the engine oil pressure switch, which could result in complete loss of engine oil with consequent partial or complete loss of engine power or fire. We are issuing this AD to correct the unsafe condition on these products.

DATES: This AD is effective August 1, 2013.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of August 1, 2013.

ADDRESSES: For service information identified in this AD, contact Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277; telephone: (316) 517–5800; fax (316) 942–9006; Internet: *www.cessna.com/customer-service/technical-publications.html.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* 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: Jeff Janusz, Sr. Propulsion Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Wichita, KS 67209; phone: (316) 946–4148; fax: (316) 946–4107; email: *jeff.janusz@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 to supersede AD 2000–04–01, amendment 39–11583 (65 FR 8649, February 22, 2000). AD 2000–04–01 applies to the specified products. The SNPRM published in the **Federal Register** on March 7, 2013 (78 FR 14726). The NPRM (77 FR 60062, October 2, 2012) proposed to increase the applicability of the AD and place a life-limit of 3,000 hours time-in-service (TIS) on the engine oil pressure switch, requiring replacement when the engine oil pressure switch reaches its life limit. The SNPRM proposed to change the applicable serial numbers ranges and place a life-limit of 3,000 hours TIS on the engine oil pressure switch, requiring replacement when the engine oil pressure switch reaches its life limit.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the SNPRM (78 FR 14726, March 7, 2013) or on the determination of the cost to the public.

Conclusion

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

- Are consistent with the intent that was proposed in the SNPRM (78 FR 14726, March 7, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the SNPRM (78 FR 14726, March 7, 2013).

Costs of Compliance

We estimate that this AD affects 6,156 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection of the airplane or engine records	.5 work-hour × $85 per hour = $42.50.	Not applicable	$42.50	$261,630
Inspection of the engine oil pressure switch installation.	.5 work-hour × $85 per hour = $42.50.	Not applicable	42.50	261,630
Removal and replacement of the engine oil pressure switch and logbook entry.	.5 work-hour × $85 per hour = $42.50.	$54	96.50	594,054

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive AD 2000–04–01, amendment 39–11583 (65 FR 8649, February 22, 2000), and adding the following new AD:

Cessna Aircraft Company: 2013–11–11: Amendment 39–17471; Docket No. FAA–2012–1052; Directorate Identifier 2012–CE–014–AD.

(a) Effective Date

This AD is effective August 1, 2013.

(b) Affected ADs

This AD supersedes AD 2000–04–01, Amendment 39–11583 (65 FR 8649, February 22, 2000).

(c) Applicability

This AD applies to Cessna Aircraft Company Models 172R, serial numbers (S/N) 17280001 through 17281618; 172S, S/N 172S8001 through 172S11256; 182S, S/N 18280001 through 18280944; 182T, S/N 18280945 through 18282357; T182T, S/N T18208001 through T18209089; 206H, S/N 20608001 through 20608349; and T206H, S/N T20608001 through T20609079; certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 7931, Engine Oil Pressure.

(e) Unsafe Condition

This AD was prompted by new reports of internal failure of the improved engine oil pressure switch, which could result in complete loss of engine oil with consequent partial or complete loss of engine power or fire. We are issuing this AD to increase the applicability of the AD and place a life-limit of 3,000 hours time-in-service (TIS) on the engine oil pressure switch, requiring replacement when the engine oil pressure switch reaches its life limit.

(f) Compliance

Comply with this AD within the compliance times specified, following Cessna Service Bulletin SB 07–79–01, dated January 29, 2007, unless already done.

(g) Actions

(1) At the next scheduled oil change, annual inspection, or 100-hour time-in-service (TIS) inspection after August 1, 2013 (the effective date of this AD), whichever occurs later, but in no case later than 12 months after August 1, 2013 (the effective date of this AD), inspect the engine oil pressure switch to determine if it is part-number (P/N) 77041 or P/N 83278.

(2) If after the inspection required in paragraph (g)(1) of this AD, P/N 77041 engine oil pressure switch is installed, before further flight, replace the engine oil pressure switch with a new, zero time, P/N 83278 engine oil pressure switch. Record the engine oil pressure switch part number, date, and airplane hours TIS in the airplane log book. The recorded engine oil pressure switch TIS will be used as the benchmark for calculation of the 3,000 hour TIS limit on the engine oil pressure switch.

(3) After August 1, 2013 (the effective date of this AD), do not install a P/N 77041 engine oil pressure switch on any affected airplane.

(4) If after the inspection required in paragraph (g)(1) of this AD it is confirmed that P/N 83278 engine oil pressure switch is installed, through inspection of the airplane or engine logbooks determine the TIS of the engine oil pressure switch.

(5) If after the inspection required in paragraph (g)(1) of this AD you cannot positively identify the hours TIS on the P/N 83278 engine oil pressure switch, before further flight, replace the engine oil pressure switch with a new, zero time, P/N 83278 engine oil pressure switch. Record the engine oil pressure switch part number, date, and airplane hours in the airplane log book. The recorded engine oil pressure switch TIS will be used as the benchmark for calculation of the 3,000 hour TIS limit on the engine oil pressure switch.

(6) When the engine oil pressure switch is at or greater than 3,000 hours TIS or within 50 hours TIS after August 1, 2013 (the effective date of this AD), whichever occurs later, and repetitively thereafter at intervals not to exceed 3,000 hours TIS on the P/N 83278 engine oil pressure switch, replace it with a new, zero time, P/N 83278 engine oil pressure switch. Record the engine oil pressure switch part number, date, and airplane hours in the airplane log book. The recorded engine oil pressure switch TIS will be used as the benchmark for calculation of the 3,000 hour TIS limit on the engine oil pressure switch.

(h) 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.

(i) Related Information

(1) For more information about this AD, contact Jeff Janusz, Sr. Propulsion Engineer, Wichita ACO, FAA, 1801 Airport Road, Wichita, KS 67209 phone: (316) 946–4148; fax: (316) 946–4107; email: *jeff.janusz@faa.gov.*

(j) 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 Service Bulletin SB 07–79–01, dated January 29, 2007.

(ii) Reserved.

(3) For Cessna Aircraft Company service information identified in this AD, contact Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277; telephone: (316) 517–5800; fax (316) 942–9006; Internet: *www.cessna.com/customer-service/technical-publications.html.*

(4) You may view this service information at 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 June 7, 2013.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–14995 Filed 6–26–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0001; Airspace Docket No. 12–ASO–45]

Amendment of Class E Airspace; Live Oak, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E Airspace in the Live Oak, FL area, as new Standard Instrument Approach Procedures (SIAPs) have been developed at Suwannee County Airport. Airspace reconfiguration is necessary for the continued safety and management of instrument flight rules (IFR) operations within the Live Oak, FL, airspace area. This action also updates the geographic coordinates of Suwannee Hospital Emergency Heliport and Suwannee County Airport.

DATES: Effective 0901 UTC, August 22, 2013. The Director of the **Federal Register** approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

History

On April 30, 2013, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to amend Class E airspace at Live Oak, FL (78 FR 6258) Docket No. FAA–2013–0001. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Subsequent to publication, the FAA found an error in the geographic coordinates of Suwannee County Airport, and the point in space coordinates for Suwannee Hospital Emergency Heliport, and corrects both. Except for editorial changes, and the changes noted above, this rule is the same as published in the NPRM.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9W dated August 8, 2012, and effective September 15, 2012, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 amends Class E airspace extending upward from 700 feet above the surface within a 7-mile radius at Suwannee County Airport, Live Oak, FL. New Standard Instrument Approach Procedures have been developed for the airport for the continued safety and management of IFR operations within the Live Oak, FL, airspace area. The geographic coordinates for Suwannee Hospital Emergency Heliport are adjusted from "lat. 30°17′29″ N., long. 83°0′24″ W.", to "lat. 30°17′29″ N., long. 83°00′14″ W."; and for Suwannee County Airport from "lat. 30°18′01″ N., long. 83°01′29″ W.", to "lat. 30°18′01″ N., long. 83°01′28″ N.", to coincide with the FAAs aeronautical database.

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, is non-controversial and unlikely to result in adverse or negative comments. 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 only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does 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 United States Code. 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.

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 amends controlled airspace in the Live Oak, FL, area.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, "Environmental Impacts: Policies and Procedures," paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 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 Federal Aviation Administration Order 7400.9W, Airspace Designations and Reporting Points, dated August 8, 2012, effective September 15, 2012, is amended as follows:

Paragraph 6005. Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ASO FL E5 Live Oak, FL [Amended]

Suwannee County Airport, FL
(Lat. 30°18′01″ N., long. 83°01′28″ W.)
Suwannee Hospital Emergency Heliport
Point in space coordinates
(Lat. 30°17′29″ N., long. 83°00′14″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Suwannee County Airport, and within a 6-mile radius of the point in space (lat. 30°17′29″ N., long. 83°00′14″ W.) serving Suwannee Hospital Emergency Heliport.

Issued in College Park, Georgia, on June 19, 2013.

Barry A. Knight,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2013–15284 Filed 6–26–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0074; Airspace Docket No. 13–ASO–3]

Amendment of Class E Airspace; Selmer, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E Airspace at Selmer, TN, as the Sibley Non-Directional Beacon (NDB) has been decommissioned and new standard instrument approach procedures developed for Instrument Flight Rules (IFR) operations at Robert Sibley Airport. This enhances the safety and management of aircraft operations at the airport. This action also updates the geographic coordinates of the airport.

DATES: Effective 0901 UTC, August 22, 2013. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

History

On March 14, 2013, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to amend Class E airspace at Robert Sibley Airport, Selmer, TN. (78 FR 16202). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9W dated August 8, 2012, and effective September 15, 2012, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 amends Class E airspace extending upward from 700 feet above the surface within a 6.7-mile radius of Robert Sibley Airport, Selmer, TN. Airspace reconfiguration is necessary due to the decommissioning of the Sibley NDB and cancellation of the NDB approach, and for continued safety and management of IFR operations at the airport. The geographic coordinates of the airport also are adjusted to be in concert with FAAs aeronautical database.

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, is non-controversial and unlikely to result in adverse or negative comments. 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 only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does 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 United States Code. 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. 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 amends controlled airspace at Robert Sibley Airport, Selmer, TN.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, "Environmental Impacts: Policies and Procedures," paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 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 Federal Aviation Administration Order 7400.9W, Airspace Designations and Reporting Points, dated August 8, 2012, effective September 15, 2012, is amended as follows:

Paragraph 6005. Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ASO TN E5 Selmer, TN [Amended]

Robert Sibley Airport, TN
(Lat. 35°12′11″ N., long. 88°29′54″ W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of Robert Sibley Airport.

Issued in College Park, Georgia, on June 19, 2013.

Barry A. Knight,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2013–15286 Filed 6–26–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Parts 40, 41, and 44

[Docket No. TTB–2013–0006; T.D. TTB–115; Re: Notice No. 137; T.D. ATF–421; T.D. ATF–422; ATF Notice Nos. 887 and 888]

RIN 1513–AB37

Importer Permit Requirements for Tobacco Products and Processed Tobacco, and Other Requirements for Tobacco Products, Processed Tobacco, and Cigarette Papers and Tubes

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Temporary rule; Treasury decision.

SUMMARY: This temporary rule amends the regulations of the Alcohol and

Tobacco Tax and Trade Bureau (TTB) pertaining to permits for importers of tobacco products and processed tobacco by extending the duration of new permits from three years to five years. Based on its experience in the administration and enforcement of importer permits over the past decade, TTB believes that it can gain administrative efficiencies and reduce the burden on industry members, while still meeting the purposes of the limited-duration permit, by extending the permit duration to five years. This temporary rule also makes several technical corrections by amending the definition of "Manufacturer of tobacco products" to reflect a recent statutory change, and by amending a reference to the sale price of large cigars to incorporate a clarification published in a prior TTB temporary rule. Finally, this temporary rule incorporates and reissues TTB regulations pertaining to importer permit requirements for tobacco products, and minimum manufacturing and marking requirements for tobacco products and cigarette papers and tubes, and, as a result, these temporary regulations replace temporary regulations originally published in 1999. TTB is soliciting comments from all interested parties on these regulatory provisions through a notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**.

DATES: This temporary rule is effective on August 26, 2013 through August 26, 2016.

FOR FURTHER INFORMATION CONTACT: David Berenbaum, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; telephone (202) 453–1039, ext. 100 or email *David.Berenbaum@ttb.gov*.

SUPPLEMENTARY INFORMATION:

Authority

Chapter 52 of the Internal Revenue Code of 1986 (IRC) contains excise tax and related provisions pertaining to tobacco products and cigarette papers and tubes. Section 5701 of the IRC (26 U.S.C. 5701) imposes various rates of tax on such products manufactured in, or imported into, the United States. Section 5704 of the IRC (26 U.S.C. 5704) provides for certain exemptions from those taxes. Sections 5712 and 5713 of the IRC (26 U.S.C. 5712 and 5713) provide that manufacturers and importers of tobacco products or processed tobacco and export warehouse proprietors must apply for and possess a permit in order to engage in such businesses. Section 5712 also allows for the promulgation of regulations prescribing minimum manufacturing and activity requirements for such permittees, and section 5713 also sets forth standards regarding the suspension and revocation of permits. Section 5754 of the IRC (26 U.S.C. 5754) sets forth restrictions on the importation of previously exported tobacco products. Section 5761 of the IRC (26 U.S.C. 5761) sets forth civil penalties for, among other things, selling, relanding, or receiving any tobacco products or cigarette papers or tubes that were labeled or shipped for exportation.

Regulations implementing the Chapter 52 provisions are contained in chapter I of title 27 of the Code of Federal Regulations (27 CFR). Those regulations include: Part 40 (Manufacture of tobacco products, cigarette papers and tubes, and processed tobacco); part 41 (Importation of tobacco products, cigarette papers and tubes, and processed tobacco); and part 44 (Exportation of tobacco products and cigarette papers and tubes, without payment of tax, or with drawback of tax).

Prior to January 24, 2003, the former Bureau of Alcohol, Tobacco and Firearms (ATF) administered these statutory and regulatory provisions. These provisions are now administered by the Alcohol and Tobacco Tax and Trade Bureau (TTB) (see section 1111 of the Homeland Security Act of 2002, Pub. L. 107–296, 116 Stat. 2274).

Balanced Budget Act of 1997

Section 9302 of the Balanced Budget Act of 1997 (BBA), Public Law 105–33, 111 Stat. 251, 671–676, enacted on August 5, 1997, amended sections 5704(b), 5712, and 5713 of the IRC and added IRC sections 5754 and 5761(c). These statutory changes, among other things:

- Placed new restrictions on the importation of previously exported tobacco products;
- Required that importers of tobacco products apply for and obtain a permit before commencing business as an importer, with a transitional rule to allow existing importers of tobacco products, who filed an application for a permit with ATF before January 1, 2000, to continue in such business pending final action on their applications;
- Required markings, as prescribed by regulations, on tobacco products and cigarette papers and tubes removed or transferred without payment of Federal excise tax;
- Provided penalties for selling, relanding, or receiving, within the jurisdiction of the United States, tobacco products or cigarette papers and tubes that were labeled or shipped for exportation and that were removed on or after the effective date of the section 9302 amendments, that is, January 1, 2000; and
- Authorized the Secretary of the Treasury (the Secretary) to prescribe minimum capacity or activity requirements as a criterion for issuance of a permit.

The above statutory changes are discussed in more detail below.

Import Restrictions on Previously Exported Tobacco Products

Section 9302(h)(1)(E)(i) of the BBA added section 5754 to the IRC, which at that time provided that previously exported tobacco products and cigarette papers and tubes may be imported or brought into the United States only as provided in section 5704(d). At that time, section 5704(d) provided that tobacco products and cigarette papers and tubes previously exported and returned could be released from customs custody, without payment of internal revenue tax, for delivery to a manufacturer of tobacco products or cigarette papers and tubes or to the proprietor of an export warehouse, in accordance with such regulations and under such bond as the Secretary shall prescribe.

Permit Requirement and Transitional Rule

Section 9302(h)(2) of the BBA amended sections 5712 and 5713 of the IRC to require, in part, that importers of tobacco products apply for and obtain a permit before commencing business as such importers. The BBA also provided a transitional rule to allow existing importers of tobacco products, who filed applications for a permit with ATF before January 1, 2000, to continue in such businesses pending final action on their applications.

Required Markings on Tobacco Products and Cigarette Papers and Tubes Removed or Transferred Without Payment of the Federal Excise Tax

Prior to the BBA's being enacted, section 5704(b) of the IRC provided that, in accordance with regulations promulgated by the Secretary:

"(1) A manufacturer or export warehouse proprietor may transfer tobacco products and cigarette papers and tubes, without payment of tax, to the bonded premises of another manufacturer or export warehouse proprietor, or remove such articles, without payment of tax, for shipment to a foreign country, Puerto Rico, the U.S. Virgin Islands, or a possession of the

United States, or for consumption beyond the jurisdiction of the U.S. internal revenue laws; and

(2) A manufacturer may similarly remove such articles for use of the United States."

Section 9302(h)(1)(A) of the BBA added a sentence at the end of section 5704(b) of the IRC to provide that tobacco products and cigarette papers and tubes may not be transferred or removed under 5704(b) unless they bear such marks, labels, or notices as the Secretary shall prescribe by regulation. The authority of the Secretary to prescribe regulations regarding the marks, labels, and notices that must appear on packages of tobacco products and cigarette papers and tubes, before removal, is also contained in section 5723(b) of the IRC (26 U.S.C. 5723(b)).

Penalty and Forfeiture Provisions

Section 9302(h)(1)(B) of the BBA added a new subsection (c) to section 5761 of the IRC to impose a civil penalty on persons, other than manufacturers or export warehouse proprietors operating in accordance with sections 5704(b) and (d) of the IRC, who sell, reland, or receive within the jurisdiction of the United States tobacco products or cigarette papers or tubes that have been labeled or shipped for exportation under chapter 52 of the IRC. The civil penalty is the greater of $1,000 or five times the amount of tax imposed on the product. Section 9302(h)(2)(A) of the BBA amended sections 5762(a)(1) and 5763(b) and (c) to apply criminal penalties and forfeiture provisions to importers of tobacco products.

Minimum Manufacturing Activity Requirements

Section 9302(h)(5) of the BBA amended section 5712 of the IRC by adding an additional factor for rejecting an application and denying a permit. The new provision stated that the application may be rejected and the permit denied if "the activity proposed to be carried out at such premises does not meet such minimum capacity or activity requirements as the Secretary may prescribe."

Temporary Rule T.D. ATF–421

On December 22, 1999, ATF published in the **Federal Register** (64 FR 71918) a temporary rule, T.D. ATF–421, amending or adding various provisions within 27 CFR parts 200 (now part 71), 270 (now part 40), 275 (now part 41), and 290 (now part 44) to implement the statutory amendments made by section 9302 of the BBA other than the new importer permit requirements which were addressed in a separate temporary rule, T.D. ATF–422, described later in this document. When earlier rulemaking documents are discussed in this preamble, any references to section numbers and regulatory texts are as they existed when that earlier rulemaking document was published. Specifically, T.D. ATF–421 adopted regulatory amendments pertaining to:

- Marks, labels, and notices;
- Minimum manufacturing activity requirements;
- Import restrictions on previously exported tobacco products, and cigarette papers, and tubes;
- Penalty and forfeiture provisions;
- Repackaging, and
- Form numbers, manufacturer and export warehouse proprietor records, and definitions.

Marks, Labels, and Notices

As noted above, the Secretary is authorized to prescribe the type of marks, labels, and notices that must appear on packages of tobacco products and cigarette papers and tubes, including on products that are exempt from Federal excise taxation under 5704(b) of the IRC. In the preamble of T.D. ATF–421, ATF noted that Congress, by adopting section 9302(h)(1)(A) of the BBA, wanted to:

- Specifically authorize ATF to determine required marks, labels, and notices for products exempt from taxation under section 5704(b) to ensure protection of the Federal excise tax revenue;
- Ensure that non-taxpaid products intended for exportation bear the proper markings; and
- Require that taxpaid products that are ultimately sold on the domestic market not bear export markings. ATF noted in this regard that allowing products with export markings on the domestic U.S. market would hinder the enforcement of lawfully due taxes and cause confusion as to whether the product had been taxpaid.

Accordingly, in T.D. ATF–421, ATF amended 27 CFR 270.233, 290.61, and 290.181 to require that tobacco products and cigarette papers and tubes bear the required marks, labels, and notices in order to qualify for transfer or removal of the product without payment of tax.

- Section 270.233 was amended to provide that tobacco products may not be transferred in bond unless they bear all required marks, labels, and notices.
- Section 290.61 was amended to provide that tobacco products and cigarette papers and tubes may not be removed for exportation without payment of tax unless they bear all required marks, labels, and notices.
- Section 290.181 was amended to provide that all tobacco products and cigarette papers and tubes must, before removal or transfer, bear the required marks, labels, or notices. Under the authority of the Secretary in section 5723(a) of the IRC to prescribe rules for the packages in which tobacco products and cigarette papers and tubes must be put up before removal, § 290.181 was further amended to clarify that the "package" upon which the marking, labeling, and notice requirements are to appear, does not include any cellophane wrapping material that may enclose a package. A package, thus, is only intended to include the actual material that holds and encloses the tobacco products and cigarette papers or tubes. This amended definition clarified placement requirements of marks, labels, and notices. In keeping with Congressional intent to prevent diversion of tobacco products, ATF wanted to ensure that marks, labels, and notices on products destined for export were clear and not easily destroyed.

Minimum Manufacturing Activity Requirements

Based on the language that section 9302 of the BBA added to section 5712 of the IRC, ATF concluded that it was authorized to establish minimum capacity or activity requirements and to deny a permit application based on an applicant's failure to meet such minimum capacity or activity requirements. ATF noted in T.D. ATF–421 that Congress enacted the provisions in question to ensure that those who apply for a permit actually intend to engage in the bona fide business of manufacturing tobacco products in a manner that would adequately protect the revenue and comply with the law and regulations.

In promulgating regulations that establish minimum capacity or activity requirements, ATF considered several issues. ATF did not want to establish criteria that would effectively exclude small tobacco products manufacturers from obtaining a permit. In addition, ATF wanted to establish criteria that would ensure that only those actually engaged in the business of manufacturing tobacco products would be able to obtain a permit. Accordingly, ATF established criteria that effectively excluded any person who is not a legitimate manufacturer and whose primary interest in obtaining a manufacturer's permit is to obtain the tax deferral benefits that a permit might facilitate (those tax deferral benefits are otherwise referred to as "downstreaming of taxes") by setting up premises covered by a permit where the

only business purpose of the premises was to store non-taxpaid products that were transferred in bond to such premises.

Small Manufacturers

ATF noted that section 5712 of the IRC requires that prior to engaging in the business of manufacturing tobacco products, a person must obtain a permit from ATF. ATF believed that any applicant who proposes to engage in the business of manufacturing of tobacco products, regardless of size, should be eligible to receive a permit, so long as the applicant meets the definition of manufacturer in section 5702(d) and has fulfilled the other conditions in the law and regulations. ATF noted that it had issued permits to some small manufacturers of tobacco products, such as those who manufacture hand-rolled cigars, and for this reason ATF did not want to establish minimum capacity or activity criteria that would exclude small tobacco products manufacturers.

Downstreaming of Taxes

As noted above, ATF wanted to ensure that permits were not issued to persons who intended to use the permit to delay tax payment. Prior to the publication of T.D. ATF–421, ATF had received inquiries from persons who wanted to obtain a permit and establish bonded premises for the primary purpose of receiving tobacco products in bond and delaying payment of Federal excise taxes.

ATF noted that the Federal excise tax on tobacco products attaches to the products as soon as they are manufactured, and that the manufacturer is liable for the tax on tobacco products held in bond. Under section 5703 of the IRC the manufacturer is required to pay the tax when the tobacco product is removed from bond. ATF noted that tobacco products generally are distributed under a three-tier distribution system: at the first level, the manufacturer pays Federal excise tax after removal of the products from bonded premises; then the products are transferred to a wholesaler, which is the second level in the distribution system; and finally to the retailer, who is the customer of the wholesaler and the third level in this three-tier system.

However, as noted above, section 5704 of the IRC provides that tobacco products may be transferred from one manufacturer or export warehouse proprietor to another manufacturer or export warehouse proprietor without payment of tax. ATF noted that because of this exemption from taxation, a business could attempt to set up one or more wholesale warehouses with some *de minimis* production capability, and obtain a manufacturer's permit for each wholesale warehouse. Using the in bond transfer provision provided by section 5704, each warehouse would then be eligible to receive tobacco products in bond at each wholesale warehouse, without payment of the excise tax. The taxes on the product would not be due until the product was distributed from the wholesale level to the retail level. This downstreaming of taxes moves the collection point for the excise tax from the production level to the wholesale level. ATF noted that while this is potentially beneficial for manufacturers since they can effectively delay taxpayment until the product is removed from the wholesale level, it has an adverse effect on Federal tax receipts since it delays payment of the Federal excise tax.

ATF stated that it wanted to prevent the downstreaming of taxes because it undermines the effect and purpose of obtaining a permit to engage in the business of manufacturing tobacco products and because it also contravenes the safeguards in obtaining a permit, that is, to protect and collect Federal excise tax revenues. Additionally, ATF was concerned with the potential number of new taxpayers (that is, wholesalers qualifying as manufacturers), and the proliferation of tax payment points, if this approach became widely used. ATF stated that it had found that the collection of excise taxes is best achieved at the highest level within the three-tier distribution chain (that is, the manufacturer's level). ATF noted in this regard that when the Federal excise tax is collected at the manufacturer's level, the agency has fewer taxpayers to monitor and thus has more efficient tax collections and fewer administrative costs.

Recognizing these concerns, ATF wanted to ensure that the new minimum manufacturing criteria would prevent issuance of permits to businesses that principally want to receive tobacco products in bond and delay Federal excise tax payments. Thus, ATF stated that it amended the regulations whereby it would continue to issue permits to small manufacturers of tobacco products, despite limited production capacity, and would deny permits to persons who seek a permit for the principal purposes of receiving in bond untaxed tobacco products.

The following summarizes ATF's explanation of the regulatory changes.

Regulations Implementing the Minimum Manufacturing Activity Criteria for Tobacco Products Manufacturers

In T.D. ATF–421, ATF amended the regulations at 27 CFR 270.61 to provide that a permit would only be granted to those persons whose principal business activity under such permit would be the original manufacture of tobacco products. A permit would not be granted to any person whose proposed principal activity under such permit would be the receipt or transfer of non-taxpaid tobacco products in bond. Furthermore, to qualify for a permit, the amount of tobacco products manufactured under a permit must exceed the amount transferred or received in bond under such permit. For example, a person who only manufactures 1,000 cigarettes per month may receive a maximum of 999 cigarettes in bond during the month under that permit. Likewise, a person who manufactures 10,000,000 cigarettes a month could receive up to 9,999,999 cigarettes in bond during the month under that permit.

ATF noted that it believed that these changes to the regulations effectively accommodated small manufacturers while protecting the timely assessment and collection of the Federal excise tax revenue. T.D. ATF–421 also amended 27 CFR 200.49b to include this activity criterion as a basis for rejecting an application for a permit. ATF stated that it did not amend 27 CFR 200.46, regarding revocation or suspension of tobacco permits, because compliance with regulations issued under the IRC was already required.

Importers and Export Warehouse Proprietors

ATF noted that it did not require a minimum capacity or activity criterion for importers or export warehouse proprietors. ATF did not believe that either an importer or export warehouse permittee would or could engage in misuse of its permit for downstreaming of taxes in a manner similar to the way that a manufacturer might misuse its permit. However, ATF did state that it would consider imposing minimum manufacturing or activity criteria on importers and export warehouse proprietors if the need should arise.

Import Restrictions on Previously Exported Tobacco Products and Cigarette Papers and Tubes

ATF noted that when the BBA was enacted section 5704(d) of the IRC allowed previously exported tobacco products to be lawfully transferred to any manufacturer of tobacco products or

cigarette papers and tubes, or to any export warehouse proprietor; and section 5704(d) did not mandate that the previously exported products return to the original manufacturer or export warehouse proprietor. Also, ATF noted that, under new IRC section 5754 as described above, previously exported tobacco products and cigarette papers and tubes could only be imported or brought into the United States by release from customs custody to a manufacturer or an export warehouse proprietor as an in bond transfer. ATF further noted that section 5754 precluded the importation and tax payment of such products by an importer since the law was very clear and left no discretion to ATF in that regard. Section 5754 at that time clearly stated that such products could only be imported or brought into the United States by the method provided in section 5704(d) of the IRC (26 U.S.C. 5704(d)), that is, a transfer, without payment of tax, to a manufacturer or export warehouse.

Based on the above, T.D. ATF–421 amended the following sections in 27 CFR part 275:

- *27 CFR 275.1:* Section 275.1 was revised to include a general discussion of importation of tobacco products and cigarette papers and tubes.
- *27 CFR 275.81:* Paragraph (a) of § 275.81 was revised to distinguish between tobacco products and cigarette papers and tubes that were imported, and those that had been previously exported from the United States and returned.
- *27 CFR 275.82:* Section 275.82 was added to discuss the new restrictions on the return of exported products.

Penalty and Forfeiture Provisions

Except for a qualified manufacturer of tobacco products or cigarette papers and tubes or an export warehouse proprietor, new section 5761(c) imposed civil penalties on persons who sell, reland, or receive within the jurisdiction of the United States any tobacco products that are labeled or shipped for export.

In T.D. ATF–421, ATF noted that it had considered ways to enforce new section 5761(c) of the IRC, since the domestic market would contain tobacco products that had been lawfully removed on or before December 31, 1999, as well as products marked for export that had been unlawfully introduced into the domestic market (that is, unlawfully removed) after December 31, 1999, and thus subject to the new civil penalty. To differentiate between the products that had been lawfully removed and those that had been unlawfully removed, ATF considered whether or not to change the export marking requirements under 27 CFR 290.185 for products manufactured after December 31, 1999. In T.D. ATF–421, ATF discussed this alternative, but declined to make these changes since it would impose major burdens on tobacco manufacturers. ATF decided that voluntary commercial marks already placed on packages by the tobacco industry would enable ATF to distinguish between these products. Further, ATF stated that if future investigations disclosed the need to do so, it would consider changing the export marking requirements on products manufactured after December 31, 1999, to differentiate between products removed.

Repackaging

With reference to new sections 5754 and 5761(c) of the IRC discussed above, ATF in T.D. ATF–421 noted that although manufacturers and export warehouse proprietors were authorized to receive relanded tobacco products or cigarette papers or tubes from customs custody without payment of the Federal excise tax, there were limitations on what manufacturers and export warehouse proprietors could do with such products. After noting that such products could be destroyed or re-exported, or (in the case of a manufacturer) repackaged and removed for sale in the domestic market, ATF noted the following in regard to these requirements, as they existed at that time:

Export warehouse: Section 5702 of the IRC defines "export warehouse" to mean "a bonded internal revenue warehouse for the storage of tobacco products and cigarette papers and tubes, upon which the internal revenue tax has not been paid, for subsequent shipment to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, or for consumption beyond the jurisdiction of the internal revenue laws of the United States." An export warehouse proprietor is defined in section 5702 as any person who operates an export warehouse. Export warehouse proprietors are only authorized to store non-taxpaid tobacco products and cigarette papers and tubes for subsequent exportation. Export warehouses are specifically established under the law to facilitate the exportation of tobacco products without payment of the excise tax. There is no authority for an export warehouse proprietor to pay the excise tax and distribute tobacco products into the domestic U.S. market. An export warehouse proprietor may only lawfully receive relanded tobacco products, transfer them to a qualified manufacturer, re-export them or destroy them.

Manufacturers: In accordance with section 5703, manufacturers are authorized under the IRC to pay excise tax on and distribute tobacco products into the domestic market. However, the IRC also requires that, before removal from a manufacturer's factory, tobacco products must be put up in packages and bear the marks, labels, and notices required by the Secretary.

As noted above, the Secretary has the general authority to prescribe packaging and marking requirements for tobacco products under section 5723(a) and (b) of the IRC. Under this authority, prior to the issuance of T.D. ATF–421, ATF had prescribed regulations under 27 CFR 290.185 which require that products removed for exportation exempt from taxation must bear export markings. Such markings include the words, "Tax-exempt. For use outside U.S." or "U.S. Tax-exempt. For use outside U.S." These export markings signify that the product is not subject to Federal taxes and that it is not intended for distribution within the United States. ATF stated in T.D. ATF–421 that it relied on these markings to identify these products as a tax-exempt export for enforcement purposes. In addition, ATF had prescribed regulations under 27 CFR 290.222 which require that tobacco products and cigarette papers and tubes on which tax has been paid and a drawback claim has been made must have a label affixed reading "For Export With Drawback of Tax."

ATF further noted in T.D. ATF–421 that previously exported products that are relanded in the United States also bear the export markings required under §§ 290.185 and 290.222 and may be intended for distribution in the domestic market. Because ATF could not tell if a particular product on the market had been lawfully taxpaid and removed from customs custody, or if it was smuggled into the U.S., the efficacy of the export marking requirements was severely reduced if these products were allowed in the domestic market. ATF concluded that since relanded tobacco products were marked in accordance with the tobacco export regulations at 27 CFR 290.185 and bore a statement that said "Tax-exempt. For use outside U.S." or "U.S. Tax-exempt. For use outside U.S." or in accordance with § 290.222 bore a statement that said "For Export With Drawback of Tax," they were not properly marked for distribution in the domestic U.S. market. Further, if products with export markings were allowed in the domestic market, this practice would hinder

enforcement of the IRC and jeopardize the revenue. ATF stated that its goal was to protect the revenue, and to determine whether the Federal excise tax on a relanded product had been paid. ATF considered various options for removing these export markings and bringing relanded products into compliance with the domestic marking and labeling requirements. In particular, ATF considered:

- Allowing such products to be overstamped;
- Allowing the obliteration of the tax-exempt marking; or
- Allowing stickers to be placed over the markings.

However, ATF concluded in T.D. ATF–421 that the options of overstamping, obliteration, or use of stickers would negate the value of these markings as a tax enforcement tool. Overstamping, obliteration, or placing stickers over the tax-exempt notice would not necessarily mean that the Federal excise tax had been paid on the relanded product because any person could obtain product that had not been federally taxpaid, place stickers over the "tax exempt" notice on packages, and distribute them in the domestic market.

After careful consideration of the issue, ATF concluded that a manufacturer who distributes relanded tobacco products into the domestic market must remove the product from its original packages (bearing export markings) and repackage them into new packages with the proper mark and notice requirements for domestic U.S. distribution as prescribed in 27 CFR part 270. ATF determined that in order to protect the Federal excise tax revenue, it is essential to require the repackaging of these reimported products before they are introduced in domestic commerce.

Thus, ATF concluded that, under 26 U.S.C. 5761(c), products labeled for export may not be sold in the domestic U.S. market. However, manufacturers were eligible to receive relanded tobacco products and cigarette papers and tubes and sell them in the domestic market if such products were completely repackaged under the laws and regulations for products not intended for exportation. Accordingly, 27 CFR 275.82(b) was added and prescribed requirements for repackaging under these circumstances. Also, T.D. ATF–421 added 27 CFR 270.213, which notified manufacturers that tobacco products marked for export are not eligible for distribution in the domestic market, and of the need to repackage such products.

Finally, ATF noted in T.D. ATF–421 that, like an export warehouse proprietor, a manufacturer was allowed to transfer tobacco products to another manufacturer or to an export warehouse proprietor, re-export the relanded tobacco products, or destroy the relanded tobacco products.

Form Numbers, Manufacturer and Export Warehouse Proprietor Records, and Definitions

In addition to the changes discussed above that were necessitated by the BBA statutory amendments, T.D. ATF–421 made several administrative changes to the ATF tobacco regulations:

Form numbers: The texts of 27 CFR 290.61a, 290.142, 290.198 through 290.208, 290.210, 290.213, and 290.256 through 290.267 were amended to change references from obsolete form number ATF F 2149/2150, to the new form number ATF F 5200.14. The regulations in 27 CFR 290.152 through 290.154 were amended to change all references from the obsolete form number ATF F 2635 to the new form number ATF F 5620.8. Also, 27 CFR 290.62 was amended to delete obsolete references to a customs form and regulatory citation.

Record retention of ATF forms: Minor changes were made in the regulations to reflect the correct number of years that ATF form numbers 5700.14 and 5620.8 must be retained. The regulations were amended to change the records retention period from 2 years to 3 years.

Manufacturer's records: The recordkeeping requirement for a manufacturer of tobacco products prescribed in 27 CFR 270.183 was amended to include the term "roll-your-own tobacco" and to include records of transfers to, and receipts from, foreign trade zones.

Export warehouse records: The recordkeeping requirements in 27 CFR 290.142 were amended to require that records include information regarding the manufacturer and brand name of products that were received, removed, transferred, destroyed, lost, or returned to manufacturers or customs bonded warehouses. In addition, the records must include the number of containers and unit type (*e.g.*, cartons, cases).

Definitions: To clarify the regulations, T.D. ATF–421 added several definitions to the "meaning of terms" sections in 27 CFR 275.11 and 290.11. Section 275.11 was amended by adding definitions for the terms "Export warehouse," "Export warehouse proprietor," "Manufacturer of tobacco products," "Manufacturer of cigarette papers and tubes," and "Relanding". Section 290.11 was amended by adding a definition for "Zone restricted status."

Subsequent Court Action, Statutory Changes, and Regulatory Amendments

On April 18, 2000, the United States District Court for the District of Columbia in the civil action *World Duty Free Americas, Inc.* v. *Treasury* (D.D.C. No. 00–00404 (RCL); 94 F. Supp. 2d 61 (D.D.C. 2000) issued a temporary injunction enjoining the Treasury Department from enforcing the temporary regulations in T.D. ATF–421 at 27 CFR 275.11 and 275.83, to the extent that they prohibited the importation of cigarettes purchased in U.S. duty free stores up to the limit allowed by the personal use exemption provided by 19 U.S.C. 1555 and subheadings 9804.00.65, 9804.00.70, and 9804.00.72 of the Harmonized Tariff Schedule of the United States (HTSUS), 19 U.S.C. 1202.

On November 9, 2000, the President signed into law the Tariff Suspension and Trade Act of 2000, Public Law 106–476, 114 Stat. 2101, which included the Imported Cigarette Compliance Act of 2000 (ICCA). Sections 5704, 5754, and 5761(c) of the IRC, which had been added or amended by section 9302 of the BBA as discussed above, were amended by the ICCA to:

- Provide in section 5704(d) that tobacco products and cigarette papers and tubes manufactured in the United States and previously exported and returned may be released from customs custody without payment of tax only to the original manufacturer or to an export warehouse proprietor authorized to receive them by the original manufacturer;
- Provide in section 5754(a)(1)(C) that tobacco products and cigarette papers and tubes labeled for exportation may not be sold or held for sale for domestic consumption in the United States unless they are removed from their export packaging and repackaged by the original manufacturer into new packaging that does not contain an export label; and
- Require in section 5761(c) the forfeiture and destruction of all relanded tobacco products and cigarette papers and tubes, except as provided under sections 5704(b) and (d).

On December 21, 2000, the President signed into law the Consolidated Appropriations Act, 2001 (CAA), Public Law 106–554, 114 Stat. 2763, which further amended section 5761(c) to allow travelers entering the United States to claim a personal use tax exemption for tobacco products manufactured within United States and labeled for export that are brought back into the United States. Under the CAA amendment, travelers may bring U.S.

manufactured and export labeled tobacco products back into the United States under a personal use exemption free of Federal excise tax up to the limit allowed under Chapter 98 of the HTSUS. In addition, travelers entering the United States and claiming a personal use exemption for U.S. manufactured and export labeled tobacco products may voluntarily relinquish any articles in excess of the quantity allowed without incurring the penalty prescribed under section 5761(c).

Notwithstanding the view of ATF that the described above changes made by the ICCA and the CAA were clear and left no discretion in implementation, in view of the pendency of the *World Duty Free Americas, Inc.* case, ATF decided to issue a notice of proposed rulemaking prior to issuance of a final rule to implement those statutory changes. Accordingly, on March 26, 2001, ATF published in the **Federal Register** (66 FR 16425) Notice No. 913 to solicit comments on proposed implementing regulations. In response to that comment solicitation ATF received one comment, which urged prompt adoption of the proposed regulations without change. Subsequently, on August 29, 2001, ATF published in the **Federal Register** (66 FR 45613) a final rule, T.D. ATF–465, adopting the proposed regulatory amendments to implement the changes made to the IRC by the ICCA and the CAA. In addition to some changes not relevant to the present rulemaking, these regulatory amendments included a complete revision of the texts of §§ 275.82 and 275.83, which had been added by T.D. ATF–421. In addition, T.D. ATF–465 amended the definition of "Relanding," which had been added by T.D. ATF–421, by removing the second sentence. On November 27, 2001, United States District Court for the District of Columbia vacated the injunction that prohibited the Treasury Department from enforcing the temporary regulations in T.D. ATF–421 referred to above.

The regulations contained in 27 CFR part 275 were later amended by T.D. ATF–444, a temporary rule published in the **Federal Register** (66 FR 13849) on March 8, 2001. These regulations eliminated ATF onsite supervision of tobacco products and cigarette papers and tubes of Puerto Rican manufacture that are shipped from Puerto Rico to the United States. This Treasury decision also amended the definition of "Records" added to § 275.11 by T.D. ATF–422 (discussed in greater detail below) and revised in their entirety, and thus superseded, the changes made by T.D. ATF–422 to §§ 275.106, 275.110, and 275.111. The definition of "Records" set forth in this new temporary rule incorporates the amendment made by T.D. ATF–444. The temporary rule in T.D. ATF–444 was finalized by T.D. TTB–68, which was published in the **Federal Register** (73 FR 16757) on March 31, 2008.

Discussion of Comments Received in Response to T.D. ATF–421

On the same day that T.D. ATF–421 was published, December 22, 1999, ATF also published in the **Federal Register** (64 FR 71927), a notice of proposed rulemaking, Notice No. 887, soliciting comments on the temporary regulatory amendments contained in T.D. ATF–421. The original comment period for Notice No. 887 lasted 60 days and closed on February 22, 2000.

During the comment period, ATF received several requests to extend the comment period on T.D. ATF–421 to provide interested parties with sufficient time to submit their comments. On March 21, 2000, ATF published Notice No. 893 (65 FR 15115) which reopened the comment period for an additional 30 days until April 20, 2000.

During the comment period, ATF also received a request to hold a public hearing regarding the temporary regulations but declined to do so. ATF determined that the two notices requesting public comment, totaling 90 days, provided sufficient time for interested parties to submit written comments and that any oral comments that could be made during a public hearing could be provided in writing within the 90 day comment period.

ATF received 26 comments from 24 different interested parties concerning the temporary regulations published in T.D. ATF–421. The comments are discussed below.

Personal Use Exemption

Fifteen comments opposed the position taken by ATF in T.D. ATF–421 that the BBA did not provide for a personal use exemption for previously exported tobacco products. The commenters argued that Congress did not intend for the amendments in section 9302 of the BBA to apply to people traveling into the United States with previously exported non-taxpaid U.S. manufactured cigarettes for personal use. Section 5704(d) of the IRC at that time provided that tobacco products and cigarette papers that were previously exported could only be brought back into the United States and released from customs custody to a manufacturer or export warehouse proprietor, and ATF interpreted this provision as precluding the adoption of a personal use exemption by regulation.

TTB notes that the personal use exemption issue has been addressed by the enactment of the CAA, which included a personal use exemption, and by the subsequent promulgation of T.D. ATF–465, as discussed above.

Return to the Original Manufacturer

Section 5754 of the IRC as adopted by the BBA allowed previously exported tobacco products and cigarette papers and tubes to be brought back into the United States and released from customs custody as provided in section 5704(d), that is, to a manufacturer of tobacco products or cigarette papers and tubes or to an export warehouse proprietor. ATF received several comments requesting that it change the regulations to provide that only the "original" manufacturer of previously exported tobacco products and cigarette papers and tubes would be eligible to receive reimported products.

The subsequent amendment of section 5704(d) of the IRC by the ICCA and the resulting regulatory amendments adopted in T.D. ATF–465, as discussed above, addressed this issue.

Removal of Export-Labeled Tobacco Products From the Market by a Certain Date

Several comments noted that the temporary regulations permitted the domestic sale of export-labeled tobacco products removed prior to January 1, 2000, and that there was no "cut-off date" by which the sale of these products in domestic commerce must cease. These comments recommended that ATF require all tobacco products made in the United States and bearing an export label to be removed from domestic commerce by a specific date.

TTB notes that section 4002 of the ICCA amended the IRC to provide that previously exported articles that were imported before January 1, 2000, for sale in the domestic market could not be legally sold or held for sale after February 7, 2001, unless they were removed from their export packaging and repackaged by the original manufacturer into new packaging that does not contain an export label. This change was discussed in the preamble of T.D. ATF–465. TTB believes that the ICCA adequately addressed the issue raised by the commenters.

Minimum Manufacturing Activity Requirements

As noted above, the BBA amended section 5712 of the IRC by adding a provision for minimum capacity or

activity requirements, as prescribed by the Secretary, as an additional factor for rejecting an application and denying a permit. T.D. ATF–421 amended § 270.61 (now § 40.61), to state that a permit to manufacture tobacco products will only be granted to those persons whose principal business activity under that permit will be the original manufacture of tobacco products, and that a permit will not be granted to any person whose principal activity under that permit will be to receive or transfer non-taxpaid tobacco products in bond. Furthermore, to qualify for a permit, the amount of tobacco products manufactured under a permit must exceed the amount transferred or received in bond under that permit.

Three comments were received in response to the minimum manufacturing activity requirements adopted in T.D. ATF–421. One expressed approval of the regulation. Two comments expressed concern that the new qualification to obtain a permit did not require a manufacturer to sell its products in the United States. The commenters asserted that the absence of this requirement creates a loophole under which unauthorized reimporters may circumvent the provisions of the BBA by qualifying as "manufacturers" simply by setting up equipment and producing a substandard "cigarette" product that was not intended to be sold in the United States. As a means of addressing this potential problem, one comment recommended that ATF define the term "manufacture of tobacco products" to include the "physical manufacturing of cigarettes from basic components, as well as shipping of those cigarettes into the market for sale or consumption."

One commenter further expressed concern that ATF did not propose regulations providing for the "inspection of facilities for purposes of verifying that a purported manufacturer is (1) legitimately manufacturing and selling product and (2) not receiving more previously exported cigarettes than is permitted under the Temporary Regulations."

Based on TTB's enforcement experience, TTB does not believe that the current regulatory text contains a loophole that allows a person to set up a sham operation as contended. TTB believes that the permit application review process and the Bureau's audit and investigation activities are sufficient to identify persons who are not engaging in the original manufacture of tobacco products and, as such, do not qualify for a TTB permit. TTB further notes that the section of the regulations in question was subsequently amended by T.D. TTB–78 and subject to its accompanying notice and public comment procedures. Therefore, it is unnecessary to further address this section in this document.

Importation Restrictions on Previously Exported Tobacco Products and Cigarette Papers and Tubes

As noted above, the BBA added section 5754 to the IRC entitled "Restriction on importation of previously exported tobacco products." Under section 5754, tobacco products and cigarette papers and tubes previously exported from the United States may be imported or brought into the United States only as provided in section 5704(d), that is, by release from customs custody, without payment of tax, to a manufacturer or to an export warehouse proprietor in accordance with such regulations and under such bonds as the Secretary shall prescribe. ATF's position, as stated in the preamble of T.D. ATF–421, was that section 5754 precluded an importer from importing previously exported products, paying tax, and selling them in the domestic market, and that the statutory text was clear and left no discretion. There were two comments from the same person in strong opposition to ATF's interpretation of this statutory provision.

TTB notes that sections 5704(d) and 5754 were subsequently amended by the ICCA to limit the parties that could receive reimported products and to require the repackaging of such products prior to sale in the United States. T.D. ATF–465 incorporated these statutory changes in the regulations in § 275.82(c) (now § 41.82(c)). Thus, the clear, limited wording of the statutory provisions in question precludes the adoption of a regulation that would contravene the position taken by ATF.

Foreign Manufactured Cigarettes

Several commenters stated that the regulations published in T.D. ATF–421 should address problems associated with cigarettes manufactured outside of the United States. TTB believes that the issues raised in these comments are beyond the scope of this rulemaking action.

Repackaging of Reimported Products

Consistent with the provisions of the BBA, T.D. ATF–421 included a provision requiring that reimported tobacco products and cigarette papers and tubes bearing export marks must be stripped of their original packaging and repackaged with the proper marks and notices as the Secretary prescribes for the domestic U.S. market. Two comments were received in response to this requirement. Both commenters agreed with the new requirement, but one suggested the inclusion of a provision whereby manufacturers could only repackage previously exported cigarettes that were originally manufactured in their own manufacturing facilities.

TTB notes that, as discussed above, the ICCA addressed this issue by providing that previously exported tobacco products and cigarette papers and tubes could be released from customs custody only to the original manufacturer of the articles in question or to an authorized export warehouse proprietor and could be repackaged by the original manufacturer. This provision was incorporated in the regulations by T.D. ATF–465.

Definitions

One commenter suggested that the terms, "Sells," "Relands," and "Receives" as used in § 275.83 (now § 41.83) should be defined to clearly indicate the nature of the activities subject to citation under this provision. The commenter stated that "[t]his would encompass all direct importers and each activity in the chain of importation including the offshore seller (if jurisdiction can be obtained), wholesalers, merchandise brokers, retailers, and consumers of illegally reintroduced cigarettes."

TTB notes that the wording of § 41.83 is basically a verbatim recitation of the language found in section 5761(c) of the IRC. TTB believes that the statutory and regulatory texts are sufficiently clear and that therefore no further regulatory change is necessary.

The same commenter suggested that ATF define the term "Person" more broadly to include: "in the case of a corporate participant, any more than 50%-owned affiliated corporation, and in the case of a closely held corporation, its shareholders or directors. In the case of a partnership, joint venture, or limited liability company, the term person should be defined to include operating partners or managers."

TTB believes that the term "Person" is sufficiently defined in 27 CFR 41.11 and notes that the regulatory definition is consistent with the IRC at 26 U.S.C. 7701(a).

Significant Regulatory Action

In T.D. ATF–421, ATF stated: "It has been determined that this temporary rule is not a significant regulatory action as defined by Executive Order 12866 because any economic effects flow directly from the underlying statute and not from this temporary rule. Therefore, a regulatory assessment is not required."

One commenter stated: "This position is incorrect because the effect of the Proposed Regulation exceeds the statutes that control, and which the Proposed Regulation is purported to augment. In addition, the effect of the Proposed Regulation has significant impact (by eliminating certain business entities from doing business in the re-importation of tobacco products) and has significant economic and tax impact on such entities."

ATF did not, and TTB does not, have the discretion in administering 26 U.S.C. 5754 to determine who can reimport tobacco products. In fact, the regulations that implement section 5754 merely repeat, essentially verbatim, the language of the statute. The regulations do not exceed the authority contained in the statute as the commenter suggests, and TTB continues to believe that the regulation is not a significant regulatory action as defined by Executive Order 12866 (as discussed in more detail below).

Subsequent Regulatory Changes

In addition to the changes made by T.D. ATF–465, published in the **Federal Register** (66 FR 45613) on August 29, 2001, the following subsequent regulatory amendments adopted by ATF and TTB affected some of the sections of the regulations that were added or amended by T.D. ATF–421:

- T.D. ATF–424, published in the **Federal Register** (64 FR 71929) on December 22, 1999, revised the introductory text of § 270.183 (now § 40.183).
- T.D. ATF–460, published in the **Federal Register** (66 FR 39091) on July 27, 2001, recodified 27 CFR part 270 as part 40.
- T.D. ATF–463, published in the **Federal Register** (66 FR 42731) on August 15, 2001, recodified 27 CFR part 200 as part 71.
- T.D. ATF–464, published in the **Federal Register** (66 FR 43478) on August 20, 2001, recodified 27 CFR part 290 as part 44.
- T.D. ATF–467, published in the **Federal Register** (66 FR 49531) on September 28, 2001, revised the definition of "Manufacturer of cigarette papers and tubes" in 27 CFR 275.11 (now § 41.11). This definition does not appear in this document.
- T.D. TTB–16, published in the **Federal Register** (69 FR 52421) on August 26, 2004, recodified 27 CFR part 275 as part 41.
- T.D. TTB–44, published in the **Federal Register** (71 FR 16918) on April 4, 2006, made nomenclature changes to 27 CFR chapter I to reflect organizational changes that resulted from the Homeland Security Act of 2002. These nomenclature changes included replacing references to the "Director" with "Administrator", and "ATF" with "TTB", and specific office or officer titles with "appropriate TTB officer."
- T.D. TTB–75, published in the **Federal Register** (74 FR 14479) on March 31, 2009, to implement certain changes made to the IRC by sections 701 and 702 of the Children's Health Insurance Program Reauthorization Act (CHIPRA), amended 27 CFR 40.183(e), and 27 CFR 41.81(c)(4)(ii) and (iii).
- T.D. TTB–78, published in the **Federal Register** (74 FR 29401) on June 22, 2009, to implement other changes made by section 702 of the CHIPRA, amended 27 CFR 40.61, the definition of "Export warehouse" in 27 CFR 41.11, 41.201, 41.202, 41.206 and 41.208, and removed 27 CFR 41.192, 41.205 and 41.207.

Temporary Rule T.D. ATF–422

On December 22, 1999, ATF published another temporary rule, T.D. ATF–422, in the **Federal Register** (64 FR 71947) setting forth regulatory changes to 27 CFR part 275 (now part 41) implementing the changes made by section 9302 of the BBA pertaining to tobacco product importer permits.

In accordance with the transitional rule contained in section 9302(i)(2) of the BBA, ATF stated in T.D. ATF–422 that persons who were already engaged in the business as an importer of tobacco products could continue in such business after January 1, 2000, provided they had filed an application for a permit with ATF before January 1, 2000. Such persons would be issued a temporary permit, which would remain valid for a period of one year or until a final determination was made on their application, if a final determination was not made within that time. ATF stated that all others must obtain a permit before engaging in the business as an importer of tobacco products or cigarette papers and tubes beginning January 1, 2000.

In T.D. ATF–422, ATF noted that only manufacturers and export warehouse proprietors may import tobacco products in bond. Hence, a bond is not required to be filed by any other importer of tobacco products in conjunction with the permit because such importers are not authorized to import tobacco products without payment of tax upon release from customs custody.

ATF took the position in T.D. ATF–422 that fully qualified applicants would be issued a permit limited to a three-year duration. ATF explained that the three-year duration had been determined to be a reasonable method to avoid the proliferation of numerous unused permits, which would pose administrative difficulties and potential jeopardy to the revenue. ATF stated that keeping track of unused permits would strain limited resources and that such permits could eventually fall into the hands of unqualified persons who would be unknown and unaccountable to ATF. ATF said that administrative controls would be put in place to facilitate timely renewals by permittees.

The tobacco product importer permit provisions were added to part 275 as new subparts K (tobacco products importer) and L (changes after original qualification of importers), which were modeled on the permit qualification provisions applicable to tobacco product manufacturers but with some differences to reflect the principles applicable to importers noted above. In addition, T.D. ATF–422 added, revised or otherwise amended the following sections in part 275 to conform them to the new importer permit provisions or, unrelated to the importer permit provisions, for purposes of updating the regulatory texts: §§ 275.11, 275.25, 275.40, 275.41, 275.50, 275.62, 275.81, 275.85, 275.85a, 275.86, 275.106, 275.110, 275.111, 275.115a, 275.140, and 275.141.

Subsequent Regulatory Changes

Because the amendments made by T.D. ATF–422 to §§ 275.105, 275.106, 275.110, 275.111, and 275.121 (now §§ 41.105, 41.106, 41.110, 41.111, and 41.121) were superseded by the revision of those sections by T.D. ATF–444 and finalized by T.D. TTB–68, those amendments are not included in this new temporary rule.

Because §§ 275.205 through 275.208 (now §§ 41.205 through 41.208) added by T.D ATF–422 were revised or removed in the publication of T.D. TTB–78, those sections are not included in this temporary rule.

Discussion of Comments Received in Response to T.D. ATF–422

In conjunction with the publication of T.D. ATF–422, ATF published a notice of proposed rulemaking, Notice No. 888, in the **Federal Register** (64 FR 71955) on December 22, 1999. This notice invited comments on the regulations prescribed in T.D. ATF–422. The original comment period for Notice No. 888 lasted 60 days and closed on February 22, 2000. On April 3, 2000, ATF published Notice No. 894 (65 FR 17477), which reopened the comment period for Notice No. 888 until May 3, 2000.

After the publication of T.D. ATF–422, ATF published two corrections and one amended correction to the temporary regulations published as T.D. ATF–422. The corrections were published as T.D. ATF–422a (65 FR 15058), T.D. ATF–422b (65 FR 45523), and T.D. ATF–422c (65 FR 63545). None of the changes contained in these correction documents affect this temporary rule.

During the comment period for Notice No. 888, ATF received comments from two different parties. The comments concerned recordkeeping and reporting requirements and the preparation and submission of one ATF form. These comments are summarized, and TTB's responses to them are set forth, below.

Records and Reports

One commenter noted that § 275.204 (now § 41.204), which sets forth the general requirement that tobacco product importers keep records and submit reports, also states that such records and reports are not required with respect to tobacco products while in customs custody. The commenter recommended that this regulation also exclude from reporting and recordkeeping tobacco products entered under a temporary importation bond (TIB). (TIBs involve entry of merchandise under Chapter 98 of the HTSUS, and under regulations administered by United States Customs and Border Protection, without payment of duty and tax; merchandise imported under a TIB must be re-exported or destroyed within one year after importation unless an extension of the one year period is granted.) In addition, the commenter asserted that the same section should exclude from the importer recordkeeping and reporting requirements tobacco products imported and delivered to export warehouses because recordkeeping and reporting requirements for those products are prescribed in 27 CFR part 290 (now 27 CFR part 44).

With regard to products under a TIB, TTB has viewed such products to be under constructive customs custody for purposes of § 41.204, that is, the statement in § 41.204, that records and reports will not be required under part 41 with respect to tobacco products while in customs custody, applies to such products covered by a TIB. TTB may review its importer reporting and recordkeeping requirements, and specifically the issue of products covered by a TIB, to ensure that adequate documentation on imported tobacco products is available and sufficient to ensure appropriate tax payment where applicable. The provision in question may be subject to future notice and public comment but is not part of this rulemaking or accompanying notice.

With regard to products imported and delivered to export warehouses, the importer is not relieved of its responsibility to maintain records and submit reports covering products it has delivered to an export warehouse, even where the importer is also the export warehouse proprietor. The importer's records and reports must include all products that are shipped or consigned to the importer, under its importer permit. The export warehouse proprietor must maintain records and submit reports that cover all products on hand, received, removed, transferred, and lost or destroyed, under its export warehouse permit. In some cases, where an importer and export warehouse proprietor are the same person, the same commercial records may serve as records for both purposes but, for adequate protection of the revenue, the activities occurring under the authority of each permit must be fully reflected in the records and reports related to that permit.

The commenter also stated that ATF should require additional information about tobacco products on the reports prescribed in part 275 (now part 41). The commenter suggested that importers be required to maintain records and to submit reports that are as rigorous as those required for domestic manufacturers. For example, the commenter suggested that importers record the cigarette brand, the name of the manufacturer of the cigarettes and the manufacturing address, and whether the cigarettes are purchased directly or indirectly from the manufacturer.

As noted above, TTB may review the current recordkeeping and reporting requirements for importers of tobacco products to ensure the requirements are sufficient to protect the revenue. If TTB determines that more restrictive requirements are necessary, any proposed changes would be made available for public comment. TTB believes it is not appropriate to include more restrictive requirements in this document without prior notice and opportunity to comment. With regard to the specific records suggested by the commenter, we note that brand information is currently required of both domestic manufacturers and importers only with regard to recording the sale price (by brand) of large cigars. The other records suggested by the commenter must be carefully considered in the context of importation, particularly with regard to whether such records are necessary for the collection of the Federal excise tax on imported products.

Notice of Release for Small Test Quantities

The second commenter stated that it routinely imports small quantities of previously exported cigarettes for testing in the United States and that the requirement to prepare and submit form ATF F 2145 (now TTB F 5200.11), Notice of Release of Tobacco Products, Cigarette Papers, or Cigarette Tubes, in order to obtain the release of a few cartons of returned cigarettes is unwarranted and burdensome. The commenter stated that requiring the preparation and submission of this form in this situation "forces the importer to incur administrative costs and expenses that are inconsistent with the value of the goods" to be imported and "unnecessarily adds to the importer's reporting burden." Furthermore, the commenter noted, "securing the required certifications takes time and delays the release and testing of the goods."

The commenter requested that ATF amend the temporary regulations to permit a domestic manufacturer to import up to six cartons of previously exported cigarettes for testing without having to prepare and submit ATF F 2145 (currently TTB F 5200.11). As an alternative, the commenter suggested that ATF allow manufacturers importing small quantities of test cigarettes to submit a "blanket" ATF F 2145 that would cover such imports for a calendar month or quarter.

As discussed above, the ICCA was enacted after the publication of T.D. ATF–422, and provided that tobacco products and cigarette papers and tubes manufactured in the United States and previously exported and returned may be released from customs custody without payment of tax only to the original manufacturer or to an export warehouse proprietor authorized to receive them by the original manufacturer. This statutory provision in effect significantly decreased the number of persons who could import previously exported tobacco products and cigarette papers and tubes. Further, since the original publication of this provision, TTB has worked with and continues to work with industry members on a case-by-case basis to facilitate such removals without risk to the revenue. For example, in some cases, based on case-specific circumstances and the compliance history of the importer, an importer may submit copies of TTB F 5200.11 and receive certification on those forms in anticipation of releasing tobacco

products or cigarette papers or tubes from customs custody without payment of tax. TTB believes that such flexibility reduces the regulatory burden of this requirement. Accordingly, we are not changing the regulatory text in this temporary rule action to incorporate the commenter's suggestion.

Reissuance of T.D. ATF–421 and T.D. ATF–422 as a New Temporary Rule

ATF did not take action to adopt, as a final rule, the T.D. ATF–421 and T.D. ATF–422 temporary regulations. TTB notes that the regulatory amendments adopted in T.D. ATF–421 and T.D. ATF–422 were significantly altered by the subsequent statutory and regulatory amendments discussed above. In view of this and the significant period of time that has elapsed since those two temporary rule documents were published, TTB believes that the best approach at this juncture is to publish one temporary rule that, in effect, reissues the regulatory texts adopted in T.D. ATF–421 and T.D. ATF–422 with changes to the texts to conform them to the later changes noted earlier in this document. In addition, in accordance with the requirements of 26 U.S.C. 7805(e)(1), TTB is publishing, in the proposed rules section of this issue of the **Federal Register**, a notice of proposed rulemaking inviting comments from the public on this new temporary rule.

Provisions of T.D. ATF–421 Reflected in This New Temporary Rule

With the exceptions as stated above and outdated references to form numbers in part 44, this temporary rule includes the following regulatory provisions issued in T.D. ATF–421 (with appropriate section number changes to reflect the recodification of 27 CFR parts 200, 270, 275, and 290 as mentioned above).

- The record requirements of tobacco product manufacturers in § 40.183 paragraphs (a), (b), (c), (d), (f), (g), (h), and (i), which were revised by T.D. ATF–421 are being reissued;
- Section 40.213, which was added by T.D. ATF–421 to cover the repackaging of tobacco products labeled for export when they are destined to be sold in the U.S. market, is being reissued in this temporary rule;
- Section 40.233 was amended by T.D. ATF–421 and is reissued in this temporary rule to require that all required marks, labels, or notices appear on tobacco products shipped under bond to a tobacco manufacturer or an export warehouse;
- Section 41.1 was revised by T.D ATF–421 and is reissued in this temporary rule to outline the scope of the part;
- In § 41.11, T.D. ATF–421 added, and this temporary rule is reissuing the definition for the term "Export warehouse proprietor" and similarly is reissuing, with some minor wording changes, the definitions for the terms "Export warehouse" and "Relanding";
- In § 44.11, T.D. ATF–421 added, and this temporary rule is revising and reissuing a definition of "Zone restricted status";
- Sections 44.61 and 44.181 were revised by T.D. ATF–421 and are reissued, with a revision to § 44.61, in this temporary rule to require that all products bear the required marks, labels, or notices before removal or transfer;
- The fifth sentence in § 44.62 regarding the restriction on deliveries of products to vessels and aircraft as supplies was revised by T.D. ATF–421 and is revised and reissued in this temporary rule; and
- Section 44.142, requiring export warehouse records to include several new items of information, was revised in T.D. ATF–421 and is revised and reissued in this new temporary rule.

Provisions of T.D. ATF–422 Reflected in This New Temporary Rule

- With the above-stated exceptions and with the exception of 27 CFR 41.39, which was removed by T.D. ATF–422 and later reissued, this temporary rule includes the following regulatory provisions issued in T.D. ATF–422 (with appropriate section number changes to reflect the recodification of 27 CFR part 275 as mentioned above). This temporary rule also reaffirms the removal of certain sections that were removed by T.D. ATF–422 (§§ 41.101(d) and (e), 41.107, 41.108, 41.117, 41.118, and 41.135 through 41.138). In § 41.11, the definitions for the terms "Customs officer," "Records", "Removal or remove", and "Port Director of Customs" are being revised and reissued;
- Section 41.85 was revised and is being further revised and reissued to, among other things, to clarify that its application is limited to tobacco products and cigarette papers and tubes that are not put up in packages and to remove the reference to importations prior to December 16, 1986;
- Sections 41.11, 41.25, 41.40, 41.41, 41.50, 41.62, 41.81, 41.85, 41.85a, 41.86, 41.106, 41.110, 41.111, 41.115a, 41.140, and 41.141 were revised and are being reissued with clarifying, editorial, procedural, and technical amendments;
- In subpart K, §§ 41.190, 41.191, 41.193, 41.194, 41.195, 41.196, 41.197, 41.199, 41.200, 41.201, 41.202, 41.203, and 41.204, were added. These provisions concern application, issuance, duration, renewal, and retention requirements that apply to tobacco product importer permits. These sections are being reissued with clarifying, editorial, procedural, and technical changes, including changes to 41.201 and 41.202 to extend the duration of importer permits, as described below; and
- In subpart L, §§ 41.220 through 41.228 were revised. These sections prescribe procedures for amending a tobacco product importer permit or providing notice when changes occur to the name, ownership and control, or location or address of a permittee. These sections are being reissued with editorial changes to enhance readability of the texts.

Extension of the Duration of New Importer Permits

As noted above, the regulations promulgated under T.D. ATF–422 provided for the expiration of a tobacco products importer permit three years from the date of issuance. An importer could, within 30 days of the expiration date, apply for its renewal of the permit. The reason for a limited-duration permit was to ensure that permits were issued to, and remained in the hands of, persons actively engaged in the importation of tobacco products under that permit. TTB has now reconsidered the three-year permit duration, particularly with a view to reducing the burden on industry members and more efficiently allocating agency resources, and has determined that the purposes of the limited-duration permit could still be met if the permit duration was changed from three years to five years.

Accordingly, this temporary rule amends §§ 41.201 and 41.202 to provide that permits issued on or after the effective date of this temporary rule will be valid for a period of five years from the date of issuance. So long as a timely application for renewal is filed (that is, within 30 days prior to the expiration date), the permit will continue in effect until TTB has taken final action on the application for renewal. Consistent with the minimum manufacturing and activity requirements of the operations regulations for tobacco products and processed tobacco, permit renewal would not be available to a person who did not import tobacco products under the permit within the one-year period immediately prior to the application to renew.

These temporary regulations also address permits that pre-date the effective date of this document. A

person who is operating as an importer of tobacco products, who holds such a permit, and who wishes to continue in business must apply for and receive a new five-year permit. The application must be submitted to TTB within 150 days after the effective date of this temporary rule, or 30 days prior to the expiration date shown on the permit form, whichever is later. If a person timely files an application but that application is not complete (that is, the applicant has not submitted information or documentation sufficient for TTB to take action on the permit), and if the applicant has not provided the missing information within one year of a written request for it or within any shorter time period specified in the written request, the permit application will be deemed abandoned and the applicant will be notified in writing that no permit will be issued in response to the incomplete application. Provided that a timely application is filed, the person may continue operations until TTB takes final action on the application.

Any person that is operating under a permit that pre-dates the effective date of this temporary rule, and that has applied for a renewal of the permit but whose application for renewal is still pending on the effective date of this temporary rule, must reapply for a permit within 150 days after the effective date of the temporary rule. TTB will work with such applicants to obtain any supplementary documentation and information needed to complete the application for a new permit. These changes will, among other things, enable TTB to purge its record of inactive permits and ensure TTB has complete, accurate, and up-to-date information on entities that hold five-year permits.

Any application for an original permit (rather than for a renewal of an existing permit) that was received prior to the effective date of this temporary rule and that is still pending on the effective date of this rule will be processed as though it were filed on or after the effective date of this temporary rule, that is, as an application for a five-year permit. The changes contained in this rulemaking do not impose any new documentation or information requirements on those applying for an original permit.

For the same reasons noted above, TTB intends to also extend the duration of the permits it issues to importers of processed tobacco. TTB notes that a number of importers of tobacco products have amended their permits to provide for the importation of processed tobacco and, because the permits are often connected in this way, TTB believes that it would be administratively preferable to amend at the same time the regulations applicable to importers of processed tobacco at 27 CFR 41.240, 41.241, and 41.242 which provide for the issuance, duration, and renewal of permits for the importation of processed tobacco. These amendments mirror the new texts of §§ 41.200, 41.201, and 41.202. The same considerations described above that apply to a pending application for permit renewal or to a pending application for an original permit apply equally to importers of processed tobacco.

Clarification of the Term "Sale Price" in Reference to Large Cigars

The regulatory amendments contained in T.D. TTB–78, referred to above, included an amendment to the definition of "Sale price" in 27 CFR 41.11. This amendment, which involved the addition of the words "United States" before the word "manufacturer," was merely intended to reflect the long-standing agency position regarding what sale transaction is the basis for the determination of tax on the large cigars. However, TTB inadvertently failed to make a corresponding change to the reference to "sale price" in the operative regulation, 27 CFR 41.39. This temporary rule makes this technical correction and also adds a new sentence at the end of § 41.39 to direct the reader to 27 CFR 41.40 for circumstances in which a domestic manufacturer would be liable for the tax on imported tobacco products.

Amendment to the Definition of "Manufacturer of Tobacco Products"

On July 6, 2012, the President signed into law the Moving Ahead for Progress in the 21st Century Act ("MAP–21"), Public Law 112–141. Section 100122 of MAP–21 amended the definition of "Manufacturer of tobacco products" at 26 U.S.C. 5702(d) to include any person who for commercial purposes makes available for consumer use (including the consumer's personal consumption or use) a machine capable of making tobacco products. The definition as amended also states that a person making such a machine available for consumer use shall be deemed the person making the removal, as that term is defined by 26 U.S.C. 5702(j), with respect to any tobacco products manufactured by such machine.

The definition as amended further states that a person who sells a machine directly to a consumer at retail for a consumer's personal home use is not making a machine available for commercial purposes if such machine is not used at a retail premises and is designed to produce tobacco products only in personal use quantities. This temporary rule amends the definition of "Manufacturer of tobacco products" where it appears in the "Meaning of terms" sections at §§ 40.11, 41.11, and 44.11 to reflect this statutory change.

Public Participation

To submit comments on the temporary regulations contained in this document, please refer to the related notice of proposed rulemaking (Notice No. 137) published in the Proposed Rules section of this issue of the **Federal Register**.

Regulatory Flexibility Act

Pursuant to the requirements of the Regulatory Flexibility Act (5 U.S.C. chapter 6), we certify that these regulations will not have a significant economic impact on a substantial number of small entities. Any effects of this rulemaking on small businesses flow directly from the underlying statutes. Accordingly, a regulatory flexibility analysis is not required. The temporary regulations also reduce the administrative burden on importers of tobacco products and processed tobacco by requiring that they renew their permits only every five years rather than every three years. Pursuant to 26 U.S.C. 7805(f), TTB will submit the temporary regulations to the Chief Counsel for Advocacy of the Small Business Administration for comment on the impact of the temporary regulations on small businesses.

Executive Order 12866

This is not a significant regulatory action as defined in E.O. 12866. Therefore, it requires no regulatory assessment.

Paperwork Reduction Act

The collections of information in the regulations contained in this reissued temporary rule have been previously reviewed and approved by Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3504(h)) and assigned control numbers 1513–0068, 1513–0070, 1513–0078, 1513–0106, and 1513–0107. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB. There is no new collection of information imposed by this temporary rule.

Comments concerning suggestions for reducing the burden of the collections of information should be directed to Mary

A. Wood, Alcohol and Tobacco Tax and Trade Bureau, at any of these addresses:

- P.O. Box 14412, Washington, DC 20044–4412;
- 202–453–2686 (facsimile); or
- *formcomments@ttb.gov* (email).

Inapplicability of Prior Notice and Comment

TTB is issuing this temporary final rule without prior notice and comment pursuant to authority under section 4(a) of the Administrative Procedure Act (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." We believe prior notice and comment is unnecessary because we expect the affected industry members will benefit from an extension of the permit duration which will reduce the industry members' ongoing regulatory burdens. In addition, TTB believes that good cause exists to provide the industry with this temporary rule because, in addition to the extension of the duration of the permit, the temporary rule incorporates statutory amendments that are already in effect. TTB is soliciting public comment on the regulatory provisions contained in this temporary rule in a concurrently issued notice of proposed rulemaking.

Drafting Information

Kara T. Fontaine and other Regulations and Rulings Division staff, Alcohol and Tobacco Tax and Trade Bureau, drafted this document.

List of Subjects

27 CFR Part 40

Cigars and cigarettes, Claims, Electronic funds transfers, Excise taxes, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Tobacco.

27 CFR Part 41

Cigars and cigarettes, Claims, Customs duties and inspection, Electronic fund transfers, Excise taxes, Imports, Labeling, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Surety bonds, Tobacco, Virgin Islands, Warehouses.

27 CFR Part 44

Aircraft, Armed forces, Cigars and cigarettes, Claims, Customs duties and inspection, Excise taxes, Exports, Foreign trade zones, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Tobacco, Vessels, Warehouses.

Amendments to the Regulations

Accordingly, for the reasons set forth in the preamble, 27 CFR parts 40, 41, and 44 are amended as set forth below.

PART 40—MANUFACTURE OF TOBACCO PRODUCTS, CIGARETTE PAPERS AND TUBES, AND PROCESSED TOBACCO

■ 1. The authority citation for part 40 continues to read as follows:

Authority: 26 U.S.C. 448, 5701–5705, 5711–5713, 5721–5723, 5731–5734, 5741, 5751, 5753, 5761–5763, 6061, 6065, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6404, 6423, 6676, 6806, 7011, 7212, 7325, 7342, 7502, 7503, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

■ 2. In § 40.11, the definition of "Manufacturer of tobacco products" is revised to read as follows:

§ 40.11 Meaning of terms.

* * * * *

Manufacturer of tobacco products. (1) Any person who manufactures cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco, other than:

(i) A person who produces tobacco products solely for that person's own consumption or use; or

(ii) A proprietor of a customs bonded manufacturing warehouse with respect to the operation of such warehouse.

(2) The term "Manufacturer of tobacco products" includes any person who for commercial purposes makes available for consumer use (including such consumer's personal consumption or use under paragraph (1)(i) of this definition) a machine capable of making cigarettes, cigars, or other tobacco products. A person making such a machine available for consumer use shall be deemed the person making the removal with respect to any tobacco products manufactured by such machine. A person who sells a machine directly to a consumer at retail for a consumer's personal home use is not making a machine available for commercial purposes if such machine is not used at a retail premises and is designed to produce tobacco products only in personal use quantities.

* * * * *

■ 3. In § 40.183, the introductory text and paragraphs (a) through (d) and (f) through (i) and the Office of Management and Budget control number referenced at the end of the section, are revised to read as follows:

§ 40.183 Record of tobacco products.

The record of a manufacturer of tobacco products must show the date and total quantities of all tobacco products by kind (small cigars; large cigars; small cigarettes; large cigarettes; chewing tobacco; snuff; pipe tobacco; roll-your-own tobacco) that are:

(a) Manufactured;

(b) Received in bond by—

(1) Transfer from other factories.

(2) Release from customs custody,

(3) Transfer from export warehouses, and

(4) Transfer from foreign trade zones;

(c) Received by return to bond;

(d) Disclosed as an overage by inventory;

* * * * *

(f) Removed, in bond, for—

(1) Export,

(2) Transfer to export warehouses,

(3) Transfer to other factories,

(4) Transfer to foreign trade zones,

(5) Use of the United States, and

(6) Experimental purposes off factory premises;

(g) Otherwise disposed of, without determination of tax, by—

(1) Consumption by employees on factory premises,

(2) Consumption by employees off factory premises, together with the number of employees to whom furnished,

(3) Use for experimental purposes on factory premises,

(4) Loss,

(5) Destruction, and

(6) Reduction to materials;

(h) Disclosed as a shortage by inventory; and

(i) On which the tax has been determined and which are—

(1) Received, and

(2) Disposed of.

(Approved by the Office of Management and Budget under control number 1513–0068.)

■ 4. Section 40.213 is revised to read as follows:

§ 40.213 Tobacco products labeled for export.

Tobacco products labeled for export are ineligible for removal from the factory for distribution into the U.S. domestic market. Tobacco products labeled for export may not be sold, transferred, or delivered into the U.S. domestic market by a manufacturer of tobacco products unless the manufacturer repackages the tobacco product by removing it from its original package bearing the export marks and placing it into a new package. The new package, mark, and notice must conform to the requirements of this subpart.

■ 5. In § 40.233, the last sentence is revised to read as follows:

§ 40.233 Transfer in bond.

* * * However, tobacco products are eligible for transfer in bond to a manufacturer of tobacco products or to an export warehouse only if they bear the required marks, labels, and notices.

PART 41—IMPORTATION OF TOBACCO PRODUCTS, CIGARETTE PAPERS AND TUBES, AND PROCESSED TOBACCO

■ 6. The authority citation for part 41 continues to read as follows:

Authority: 26 U.S.C. 5701–5705, 5708, 5712, 5713, 5721–5723, 5741, 5754, 5761–5763, 6301, 6302, 6313, 6402, 6404, 7101, 7212, 7342, 7606, 7651, 7652, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

■ 7. Section 41.1 is revised to read as follows.

§ 41.1 Importation of tobacco products, cigarette papers and tubes, and processed tobacco.

This part contains regulations relating to tobacco products, cigarette papers and tubes, and processed tobacco imported into the United States from a foreign country or brought into the United States from Puerto Rico, the Virgin Islands, or a possession of the United States.

■ 8. In § 41.11, the definitions of "Customs officer", "Export warehouse", "Export warehouse proprietor", "Manufacturer of tobacco products", "Port Director of Customs", "Records", "Relanding", and "Removal or remove" are revised to read as follows:

§ 41.11 Meaning of terms.

* * * * *

Customs officer. An officer of U.S. Customs and Border Protection or any agent or other person authorized by law or designated by the Secretary of the Treasury or the Secretary of Homeland Security to perform the duties of an officer of U.S. Customs and Border Protection.

* * * * *

Export warehouse. A bonded internal revenue warehouse for the storage of tobacco products and cigarette papers and tubes, upon which the internal revenue tax has not been paid or for the storage of processed tobacco, for subsequent shipment to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, or for consumption beyond the jurisdiction of the internal revenue laws of the United States.

Export warehouse proprietor. Any person who operates an export warehouse.

* * * * *

Manufacturer of tobacco products. (1) Any person who manufactures cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco, other than:

(i) A person who produces tobacco products solely for that person's own consumption or use; or

(ii) A proprietor of a customs bonded manufacturing warehouse with respect to the operation of such warehouse.

(2) The term "Manufacturer of tobacco products" includes any person who for commercial purposes makes available for consumer use (including such consumer's personal consumption or use under paragraph (1)(i) of this definition) a machine capable of making cigarettes, cigars, or other tobacco products. A person making such a machine available for consumer use shall be deemed the person making the removal with respect to any tobacco products manufactured by such machine. A person who sells a machine directly to a consumer at retail for a consumer's personal home use is not making a machine available for commercial purposes if such machine is not used at a retail premises and is designed to produce tobacco products only in personal use quantities.

* * * * *

Port Director of Customs. The director of any port or port of entry as defined in 19 CFR 101.1. A list of customs service ports and ports of entry is set forth in 19 CFR 101.3.

* * * * *

Records. The accounts, books, correspondence, declarations, papers, statements, technical data, electronic media and the computer programs necessary to retrieve the stored information in a usable form, and other documents that:

(1) Pertain to any importation of tobacco products, cigarette papers or tubes, or processed tobacco, to the information contained in the documents required by law or regulation under the Tariff Act of 1930, as amended, in connection with the importation or shipment of merchandise into the United States from Puerto Rico; and

(2) Are of the type normally kept in the ordinary course of business; and

(3) Are sufficiently detailed to:

(i) Establish the right to make the importation or shipment into the United States from Puerto Rico;

(ii) Establish the correctness of any importation or shipment into the United States from Puerto Rico;

(iii) Determine the liability of any person for duties and taxes due, or which may be due, to the United States;

(iv) Determine the liability of any person for fines, penalties, and forfeitures; and

(v) Determine whether the person has complied with the laws and regulations administered by TTB and U.S. Customs and Border Protection (CBP) and with any other documents required under laws or regulations administered by TTB and CBP.

Relanding. When used with reference to tobacco products and cigarette papers and tubes, the term "relanding" means importing, bringing, or returning into the jurisdiction of the United States any tobacco products or cigarette papers or tubes that were manufactured in the United States, labeled or shipped for export (including to Puerto Rico) as prescribed in this chapter, and previously exported from the United States.

Removal or remove. When used with reference to tobacco products or cigarette papers or tubes or any processed tobacco, the term "removal" or "removed" means removal from the factory, release from internal revenue bond under 26 U.S.C. 5704, release from customs custody (including conditional release as defined in 19 CFR 141.0a(i)), and also includes the smuggling or other unlawful importation of such articles into the United States.

* * * * *

■ 9. In § 41.25 the fourth sentence is revised to read as follows:

§ 41.25 Disposal of forfeited, condemned, and abandoned tobacco products and cigarette papers and tubes.

* * * Except when the tax is to be paid to the Port Director of Customs or other authorized customs officer in accordance with customs regulations (19 CFR part 127) on sales of articles by customs officers, the payment of tax on those articles must be evidenced by presentation, to the officer having custody of the articles, of a receipt from the appropriate TTB officer showing such payment. * * *

■ 10. In § 41.39, the first sentence is amended by adding the words "United States" before the word "manufacturer", and a sentence is added at the end to read as follows:

§ 41.39 Determination of sale price of large cigars.

* * * See § 41.40 of this chapter regarding liability for tax on large cigars, not put up in packages, released from customs custody without payment of tax for delivery to a domestic manufacturer of tobacco products.

■ 11. Section 41.40 is revised to read as follows:

§ 41.40 Persons liable for tax.

The importer of tobacco products or cigarette papers and tubes is liable for the internal revenue taxes imposed thereon by 26 U.S.C. 5701 or 7652, except when tobacco products or cigarette papers or tubes imported or brought into the United States (other than those previously exported and returned) are released from customs custody, without payment of tax as provided under 26 U.S.C. 5704(c). Under section 5704(c), tobacco products and cigarette papers and tubes, imported or brought into the United States, may be released from customs custody, without payment of tax, for delivery to the proprietor of an export warehouse, or to a manufacturer of tobacco products or cigarette papers and tubes if such articles are not put up in packages. Under these circumstances the transferee will become liable for the internal revenue tax on these articles upon release from customs custody, and the importer will thereupon be relieved from the liability for the tax. However, if the transferee is also the importer, the importer will not be relieved from the liability for the tax.

■ 12. Section 41.41 is revised to read as follows:

§ 41.41 Determination and payment of tax.

Tobacco products and cigarette papers and tubes imported or brought into the United States, on which internal revenue taxes are due and payable, are not eligible for release from customs custody until those taxes have been determined.

■ 13. In § 41.50, the last two sentences are revised to read as follows:

§ 41.50 Exemptions.

* * * These exemptions include, but are not limited to, certain importations in passengers' baggage, for use of crew members, and by foreign officials. Persons importing tobacco products and cigarette papers and tubes as described in this section are not required to obtain a permit.

■ 14. Section 41.62 is revised to read as follows:

§ 41.62 Customs collection of internal revenue taxes on tobacco products and cigarette papers and tubes imported or brought into the United States.

Internal revenue taxes on tobacco products and cigarette papers and tubes imported or brought into the United States, which are to be paid to the Port Director of Customs or other authorized customs officer, in accordance with this part, must be collected, accounted for, and deposited as internal revenue collections by the Port Director of Customs in accordance with customs procedures and regulations.

■ 15. In § 41.81, paragraphs (a), (b), and (c) introductory text are revised to read as follows:

§ 41.81 Taxpayment.

(a) *General.* This section applies to tobacco products and cigarette papers and tubes upon which internal revenue tax is payable and which are imported into the United States from a foreign country or are brought into the United States from Puerto Rico, the Virgin Islands, or a possession of the United States. For provisions relating to restrictions on the importation of previously exported tobacco products and cigarette papers and tubes, see § 41.82.

(b) *Method of payment.* Except for articles imported or brought into the United States as provided in §§ 41.85 and 41.85a, the internal revenue tax must be determined before the tobacco products, cigarette papers, or cigarette tubes are removed from customs custody. The tax must be paid on the basis of a return on the customs form or by authorized electronic transmission by which the tobacco products, cigarette papers, or cigarette tubes are duty- and tax-paid to customs.

(c) *Required information.* When tobacco products or cigarette papers or tubes enter the United States for consumption, or when they are released from customs custody for consumption, the importer must include the Federal excise tax information specified in paragraphs (c)(1) through (7) of this section on the customs form or on the authorized electronic transmission if the form or electronic transmission allows for the reporting of such information. Whether or not the specified information appears on the form or electronic transmission filed with customs, that information, together with a copy of the customs form or the electronic transmission, must be retained and made available for inspection by the appropriate TTB officer.

* * * * *

■ 16. Section 41.85 is revised to read as follows:

§ 41.85 Release from customs custody of imported tobacco products or cigarette papers or tubes.

(a) *General.* This section applies only to tobacco products and cigarette papers and tubes that are not put up into packages in which they will be sold to consumers. Subject to the requirements of § 41.86, the Port Director of Customs or authorized customs officer may release the following articles from customs custody without payment of internal revenue tax under the internal revenue bond of the manufacturer or export warehouse proprietor to whom the articles are released:

(1) Tobacco products manufactured in a foreign country, the Virgin Islands, or a possession of the United States, for transfer to the bonded premises of a manufacturer of tobacco products or to the bonded premises of an export warehouse proprietor; and

(2) Cigarette papers and tubes manufactured in a foreign country, the Virgin Islands, or a possession of the United States, for transfer to the factory of manufacturer of cigarette papers and tubes, to an export warehouse proprietor, or to a manufacturer of tobacco products solely for use in the manufacture of cigarettes.

(b) *Products from the Virgin Islands.* In addition to the documentation required by § 41.86, in the case of products exported from the Virgin Islands the manufacturer also must file an extension of coverage of the internal revenue bond on TTB F 5000.18, and receive a notice of approval from the appropriate TTB officer, in order to obtain release under paragraph (a)(1) of this section. The extension of coverage must be executed by the principal and the surety and must be in the following form:

"Whereas the purpose of this extension is to bind the obligors for the purpose of the tax imposed by 26 U.S.C. 7652(b), on tobacco products and cigarette papers and tubes exported from the Virgin Islands and removed from customs custody in the United States without payment of internal revenue tax, for delivery to the principal on said bond."

"Now, therefore, the said bond is further specifically conditioned that the principal named therein must pay all taxes imposed by 26 U.S.C. 7652(b) plus penalties, if any, and interest, for which he may become liable with respect to these products exported from the Virgin Islands and removed from customs custody in the United States without payment of internal revenue tax thereon, and must comply with all provisions of law and regulations with respect thereto."

(c) *Receipt by manufacturer.* Articles received into the factory of a manufacturer under this section are subject to the requirements of part 40 of this chapter.

■ 17. Section 41.85a is revised to read as follows:

§ 41.85a Release from customs custody of returned articles.

(a) Domestically manufactured tobacco products (classifiable under item 9801.00.80 of the Harmonized

Tariff Schedule of the United States, 19 U.S.C. 1202) exported from and returned to the United States without change to the product or the shipping container may be released from customs custody in the United States, under the bond of the original manufacturer or of the export warehouse proprietor who has been authorized by the original manufacturer (see § 41.82), without payment of that part of the duty attributable to internal revenue tax, for delivery to the bonded premises of the original tobacco products manufacturer or to the bonded premises of the export warehouse proprietor.

(b) Domestically manufactured cigarette papers and tubes (classifiable under item 9801.00.80 of the Harmonized Tariff Schedule of the United States, 19 U.S.C. 1202) exported from and returned to the United States without change to the product or the shipping container may be released from customs custody in the United States, without payment of that part of the duty attributable to internal revenue tax, for delivery to the bonded premises of the original manufacturer of the cigarette papers and tubes or an export warehouse proprietor authorized by the original manufacturer to receive such products.

(c) Releases under this section must be in accordance with the procedures set forth in § 41.86. Once released, the tobacco products and cigarette papers and tubes are subject to the tax and other provisions of 26 U.S.C. chapter 52 and, as applicable, to the regulations in part 40 of this chapter as if they had not been exported or otherwise removed from internal revenue bond.

■ 18. Section 41.86 is revised to read as follows:

§ 41.86 Procedure for release.

(a) Every manufacturer of tobacco products or cigarette papers and tubes and every export warehouse proprietor who desires to obtain the release of tobacco products or cigarette papers and tubes from customs custody, without payment of internal revenue tax under its internal revenue bond, as provided in §§ 41.85 or 41.85a, must prepare a notice of release, TTB F 5200.11 and file the form with the appropriate TTB officer in accordance with the instructions on the form. The appropriate TTB officer will certify TTB F 5200.11 covering the release of the tobacco products or cigarette papers and tubes under 26 U.S.C. 5704(c) or (d) if the manufacturer or export warehouse proprietor is authorized to receive the products.

(b) Importers who are manufacturers of tobacco products or cigarette papers and tubes or export warehouse proprietors, or their authorized agents, who request the release of tobacco products or cigarette papers and tubes from customs custody in the United States under this section, using customs electronic filing procedures, must not request the release until they have received the TTB F 5200.11 certified by the appropriate TTB officer. Once U.S. Customs and Border Protection releases the tobacco products or cigarette papers and tubes in accordance with 19 CFR part 143, customs directives, and any other applicable instructions, the importer must submit a copy of the TTB F 5200.11 along with a copy of the electronic filing and customs release to the appropriate TTB officer at the address shown on TTB F 5200.11. The importer must retain two copies of the TTB F 5200.11, one copy to meet TTB recordkeeping requirements and one copy to meet customs recordkeeping requirements.

(c) Importers or their authorized agents requesting release of tobacco products or cigarette papers or tubes from customs custody in the United States under any authorized procedure other than the electronic filing procedures provided for in paragraph (b) of this section, must submit all copies of the TTB F 5200.11 to the appropriate customs officer along with the request for release. The customs officer will verify that the TTB F 5200.11 has been certified by the appropriate TTB officer and return all copies to the importer or the importer's authorized agent.

(d) Once U.S. Customs and Border Protection releases the tobacco products or cigarette papers and tubes in accordance with 19 CFR part 143, customs directives, and any other applicable instructions, the importer must send a copy of the TTB F 5200.11 along with a copy of the customs release to the appropriate TTB office at the address shown thereon. The importer must retain two copies of the TTB F 5200.11, one copy to meet TTB recordkeeping requirements and one copy to meet customs recordkeeping requirements.

■ 19. In § 41.115a, paragraph (e) is revised to read as follows:

§ 41.115a Payment of tax by electronic fund transfer.

* * * * *

(e) *Procedure.* Upon the notification required under paragraph (b)(1) of this section, the appropriate TTB officer will issue to the taxpayer a TTB Procedure entitled, Payment of Tax by Electronic Fund Transfer (EFT). This publication outlines the procedure a taxpayer must follow when preparing returns and EFT remittances under this part.

* * * * *

■ 20. In § 41.140, the first sentence is revised to read as follows:

§ 41.140 Taxpayment of unpackaged Puerto Rican products made in Puerto Rico and brought into the United States.

Every manufacturer of tobacco products or cigarette papers or tubes in the United States who receives, under its bond without payment of internal revenue tax, Puerto Rican tobacco products or cigarette papers or tubes not put up in packages, and who subsequently removes such products subject to tax, must pay the tax imposed on these products by 26 U.S.C. 7652(a) at the rates prescribed in 26 U.S.C. 5701 on the basis of a return as prescribed by part 40 of this chapter. * * *

■ 21. In § 41.141, the first sentence is revised to read as follows:

§ 41.141 Reports.

Every manufacturer of tobacco products or cigarette papers or tubes in the United States who receives Puerto Rican tobacco products or cigarette papers or tubes under its bond without payment of internal revenue tax must report the receipt and disposition of such tobacco products and cigarette papers and tubes on supplemental monthly reports. * * *

* * * * *

■ 22. Section 41.190 is revised to read as follows:

§ 41.190 Persons required to qualify.

Any person who engages in the business as an importer of tobacco products must qualify as an importer of tobacco products in accordance with this part. Any person eligible for an exemption described in § 41.50 is not engaged in the business as an importer of tobacco products. A person importing tobacco products for personal use, in such quantities as may be allowed by Customs without payment of tax, is not required to have an importer's permit.

■ 23. Section 41.191 is revised to read as follows:

§ 41.191 Application for permit.

Every person, before commencing business as an importer of tobacco products, must make application for, and obtain, the permit in accordance with this subpart. The permit application must be made on TTB F 5230.4 in accordance with the instructions for the form. All documents required under this part to be furnished

with the permit application must be made a part thereof.

■ 24. Section 41.193 is revised to read as follows:

§ 41.193 Corporate documents.

Every corporation that files an application for a permit as an importer of tobacco products must furnish with its application for the permit required by § 41.191 a true copy of the corporate charter or a certificate of corporate existence or incorporation executed by the appropriate officer of the State in which incorporated. The corporation must likewise furnish duly authenticated extracts of the stockholders' meetings, bylaws, or directors' meetings, listing the offices that, or the officers who, are authorized to sign documents or otherwise act in behalf of the corporation in matters relating to 26 U.S.C. chapter 52 and the regulations issued thereunder. The corporation must also furnish evidence, in duplicate, of the identity of the officers and directors and each person who holds more than ten percent of the stock of the corporation. Where the corporation has previously filed with the appropriate TTB officer any information required by this section and that information is currently complete and accurate, a written statement to that effect, in duplicate, will be sufficient for purposes of this section.

■ 25. Section 41.194 is revised to read as follows:

§ 41.194 Articles of partnership or association.

Every partnership or association that files an application for a permit as an importer of tobacco products must furnish with its application for the permit required by § 41.191 a true copy of the articles of partnership or association, if any, or the certificate of partnership or association where required to be filed by any State, county, or municipality. Where a partnership or association has previously filed these documents with the appropriate TTB officer and the documents are currently complete and accurate, a written statement, in duplicate, to that effect by the partnership or association will be sufficient for purposes of this section.

■ 26. Section 41.195 is revised to read as follows:

§ 41.195 Trade name certificate.

Every person that files an application for a permit as an importer of tobacco products operating under a trade name must furnish with the application for the permit required by § 41.191 a true copy of the certificate or other document, if any, issued by a State, county, or municipal authority in connection with the transaction of business under the trade name. If no such certificate or other document is issued by the State, county, or municipal authority, a written statement, in duplicate, to that effect by the person will be sufficient for purposes of this section.

■ 27. Section 41.196 is revised to read as follows:

§ 41.196 Power of attorney.

If the application for a permit or any report or other document required to be executed under this part is to be signed by an individual as an attorney in fact for any person (including one of the partners for a partnership or one of the members of an association), or if an individual is otherwise to officially represent such person, a power of attorney on TTB F 5000.8 must be furnished to the appropriate TTB officer. A power of attorney is not required for individuals whose authority is furnished with the corporate documents required by § 41.193. A new TTB F 5000.8 does not have to be filed with the appropriate TTB officer if that form previously was submitted to TTB and is still in effect.

■ 28. Section 41.197 is revised to read as follows:

§ 41.197 Additional information.

The appropriate TTB officer may require the submission of, and the applicant must furnish, as a part of the application for a permit, such additional information the appropriate TTB officer deems necessary to determine whether the applicant is entitled to a permit under this subpart.

■ 29. Section 41.199 is revised to read as follows:

§ 41.199 Notice of contemplated disapproval.

If the appropriate TTB officer has reason to believe that the applicant is not entitled to a permit, the appropriate TTB officer will promptly provide to the applicant a notice of the contemplated disapproval of the application and an opportunity for hearing thereon in accordance with part 71 of this chapter. If, after the notice and opportunity for hearing, the appropriate TTB officer finds that the applicant is not entitled to a permit, an order will be prepared stating the findings on which the application is denied.

■ 30. Section 41.200 is revised to read as follows:

§ 41.200 Issuance of permit.

If the application for the permit required under this subpart is approved, the appropriate TTB officer will issue the permit on TTB F 5200.24.

■ 31. Section 41.201 is revised to read as follows:

§ 41.201 Duration of permit.

(a) *Permits with an effective date on or after August 26, 2013.* A permit issued under § 41.200 bearing an effective date of August 26, 2013 or later will be valid for a period of five years from the effective date shown on the permit. Provided that a timely application for renewal is filed under § 41.202, the expiring permit will continue in effect until final action is taken by TTB on the application for renewal.

(b) *Permits with an effective date prior to August 26, 2013.* A person operating as an importer of tobacco products that holds a permit bearing an effective date that is prior to August 26, 2013 and that wishes to continue operations as an importer of tobacco products, must apply for and receive a new permit issued under § 41.200. The person must file the application under § 41.191 within 150 days after August 26, 2013, or within 30 days prior to the expiration date shown on the existing permit form, whichever is later. If a person timely files an application but that application is not complete (that is, the applicant has not submitted information or documentation sufficient for TTB to take action on the permit), and if the applicant has not provided the missing information within one year of a written request for it or within any shorter time period specified in the written request, the permit application will be deemed abandoned and the applicant will be notified in writing that no permit will be issued in response to the incomplete application. Provided that a timely application is filed, the person may continue operations under the existing permit until TTB takes final action on the application for the new permit.

■ 32. Section 41.202 is revised to read as follows:

§ 41.202 Renewal of permit.

(a) *Permits with an effective date on or after August 26, 2013.* A person operating as an importer of tobacco products that holds a permit required under § 41.191 and issued under § 41.200 bearing an effective date of August 26, 2013 or later, and that wishes to continue operations beyond the expiration of the permit, must apply for renewal of the permit within 30 days prior to expiration of the permit, in

accordance with the instructions provided with the renewal application form. Permits will be renewed only for those persons that have engaged in the importing of tobacco products under the current permit during the one-year period immediately prior to the date of the application to renew.

(b) *Permits with an effective date prior to August 26, 2013.* A person may not obtain renewal of a permit bearing an effective date prior to August 26, 2013. A person operating as an importer of tobacco products that holds a permit bearing an effective date prior to August 26, 2013, and that wishes to continue in operations as an importer of tobacco products, must apply for and receive a new permit for issuance under § 41.200 and in accordance with the rules contained in § 41.201(b).

■ 33. Section 41.203 is revised to read as follows:

§ 41.203 Retention of permit and supporting documents.

The importer must retain the permit, together with the copy of the application and supporting documents returned with the permit, at the same place where the records required by this subpart are kept. The importer must make the permit and supporting documents available for inspection by any appropriate TTB officer upon request.

■ 34. Section 41.204 is revised to read as follows:

§ 41.204 Records and reports in general.

Every tobacco products importer must keep records and, when required by this part, submit reports, of the physical receipt and disposition of tobacco products. Records and reports are not required under this part with respect to tobacco products that are in customs custody.

■ 35. Subpart L is revised to read as follows:

Sec.

Subpart L—Changes After Original Qualification of Importers

Changes in Name

§ 41.220 Change in individual name.

When there is a change in the name of an individual operating under a permit as an importer of tobacco products, the importer must, within 30 days of the change, submit an application on TTB F 5230.5 for an amended permit.

§ 41.221 Change in trade name.

When there is a change in, or an addition or discontinuance of, a trade name used by an importer of tobacco products in connection with operations authorized by the permit, the importer must, within 30 days of the change, apply for an amended permit on TTB F 5230.5 to reflect such change. The importer must also furnish a true copy of any new trade name certificate or document issued to the business, or a statement in lieu thereof, as required by § 41.195.

§ 41.222 Change in corporate name.

When there is a change in the corporate name of an importer of tobacco products, the importer must, within 30 days of such change, apply for an amended permit on TTB F 5230.5. The importer must also furnish such documents as may be necessary to establish that the corporate name has been changed.

Changes in Ownership or Control

§ 41.223 Fiduciary successor.

If an administrator, executor, receiver, trustee, assignee, or other fiduciary is to take over the business of an importer of tobacco products as a continuing operation, the fiduciary must, before commencing operations, apply for a permit in accordance with § 41.191 and furnish certified copies, in duplicate, of the order of the court or other pertinent documents, showing his or her appointment and qualification as the fiduciary. Where a fiduciary intends only to liquidate the business, qualification as an importer of tobacco products is not required if the fiduciary promptly files with the appropriate TTB officer a written statement to that effect.

§ 41.224 Transfer of ownership.

If a transfer in ownership of the business of an importer of tobacco products (including a change of any member of a partnership or association) is to be made, the importer must give written notice to the appropriate TTB officer, naming the proposed successor and the desired effective date of the transfer. Before commencing operations, the proposed successor must qualify as an importer of tobacco products in accordance with subpart K of this part. The importer must give notice of the transfer, and the proposed successor must apply for the permit, in sufficient time for examination and approval of the application before the desired date of the transfer. The predecessor importer must make a concluding report in accordance with § 41.206 and must surrender the permit with that report. The successor importer must make a first report in accordance with § 41.206.

§ 41.225 Change in officers, directors, or stockholders of a corporation.

Upon election or appointment (excluding successive reelection or reappointment) of any officer or director of a corporation operating as an importer of tobacco products, or upon any occurrence that results in a person acquiring ownership or control of more than ten percent in aggregate of the outstanding stock of such corporation, the importer must, within 30 days of that action, so notify the appropriate TTB officer in writing, giving the identity of the person. In the event that the acquisition of more than 10 percent in aggregate of the outstanding stock of the corporation results in a change of control of the corporation, the provisions of § 41.226 will apply. When there is any change in the authority furnished under § 41.196 for officers to act on behalf of the corporation, the importer must immediately so notify the appropriate TTB officer in writing.

§ 41.226 Change in control of a corporation.

When the issuance, sale, or transfer of the stock of a corporation operating as an importer of tobacco products results in a change in the identity of the principal stockholders exercising actual or legal control of the operations of the corporation, the corporate importer must, within 30 days after the change occurs, apply for a new permit on TTB F 5230.4. If the application is not timely made, the present permit will automatically terminate at the expiration of that 30-day period, and the importer must dispose of all tobacco products on hand in accordance with this part, make a concluding report in accordance with § 41.206, and surrender the permit with that report. If the application for a new permit is timely made, the present permit will continue in effect pending final action with respect to the new application.

Changes in Location or Address

§ 41.227 Change in location.

When an importer of tobacco products intends to relocate its principal business office, the importer must, before commencing operations at the new location, make application on TTB F 5230.5 for, and obtain, an amended permit.

§ 41.228 Change in address.

When any change occurs in the address, but not the location, of the principal business office of an importer of tobacco products as a result of action by local authorities, the importer must, within 30 days of such change, make application on TTB F 5230.5 for an amended permit.

■ 36. Section 41.240 is revised to read as follows:

§ 41.240 Issuance of permit.

If the application for the permit required under this subpart is approved, the appropriate TTB officer will issue the permit on TTB F 5200.24.

■ 37. Section 41.241 is revised to read as follows:

§ 41.241 Duration of permit.

(a) *Permits with an effective date on or after August 26, 2013.* A permit issued under § 41.240 bearing an effective date of August 26, 2013 or later will be valid for a period of five years from the effective date shown on the permit. Provided a timely application for renewal is filed under § 41.242, the expiring permit will continue in effect until final action is taken by TTB on the application for renewal.

(b) *Permits with an effective date prior to August 26, 2013.* A person operating as an importer of processed tobacco that holds a permit bearing an effective date that is prior to August 26, 2013 and that wishes to continue operations as an importer of processed tobacco must apply for and receive a new permit issued under § 41.240. The person must file the application under § 41.232 within 150 days after August 26, 2013, or within 30 days prior to the expiration date shown on the existing permit form, whichever is later. If a person timely files an application but that application is not complete (that is, the applicant has not submitted information or documentation sufficient for TTB to take action on the permit), and if the applicant has not provided the missing information within one year of a written request for it or within any shorter time period specified in the written request, the permit application will be deemed abandoned and the applicant will be notified in writing that no permit will be issued in response to the incomplete application. Provided that a timely application is filed, the person may continue operations under the existing permit until TTB takes final action on the application for the new permit.

■ 38. Section 41.242 is revised to read as follows:

§ 41.242 Renewal of permit.

(a) *Permits with an effective date on or after August 26, 2013.* A person operating as an importer of processed tobacco that holds a permit issued under § 41.240 bearing an effective date of August 26, 2013 or later, and that wishes to continue operations beyond the expiration of the permit, must apply for renewal of the permit within 30 days prior to expiration of the permit, in accordance with instructions provided with the renewal application form. Permits will be renewed only for those persons that have engaged in the importing of processed tobacco under the current permit during the one year period immediately prior to the date of the application to renew.

(b) *Permits with an effective date prior to August 26, 2013.* A person may not obtain renewal of a permit bearing an effective date prior to August 26, 2013. A person operating as an importer of processed tobacco that holds a permit bearing an effective date prior to August 26, 2013, and that wishes to continue in operations as an importer of processed tobacco, must apply for and receive a new permit for issuance under § 41.240 and in accordance with the rules contained in § 41.241(b).

PART 44—EXPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX OR WITH DRAWBACK OF TAX

■ 39. The authority citation for part 44 is revised to read as follows:

Authority: 26 U.S.C. 448, 5701–5705, 5711–5713, 5721–5723, 5731–5734, 5741, 5751, 5754, 6061, 6065, 6151, 6402, 6404, 6806, 7011, 7212, 7342, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

■ 40. In § 44.11, the definition of "Manufacturer of tobacco products" and of "Zone restricted status" are revised to read as follows.

§ 44.11 Meaning of terms.

* * * * *

Manufacturer of tobacco products. (1) Any person who manufactures cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco, other than:

(i) A person who produces tobacco products solely for that person's own consumption or use; or

(ii) A proprietor of a customs bonded manufacturing warehouse with respect to the operation of such warehouse.

(2) The term "Manufacturer of tobacco products" includes any person who for commercial purposes makes available for consumer use (including such consumer's personal consumption or use under paragraph (1)(i) of this definition) a machine capable of making cigarettes, cigars, or other tobacco products. A person making such a machine available for consumer use shall be deemed the person making the removal with respect to any tobacco products manufactured by such machine. A person who sells a machine directly to a consumer at retail for a consumer's personal home use is not making a machine available for commercial purposes if such machine is not used at a retail premises and is designed to produce tobacco products only in personal use quantities.

* * * * *

Zone restricted status. The status assigned to tobacco products and cigarette papers and cigarette tubes taken into a foreign trade zone from the customs territory of the United States for the sole purpose of exportation or storage until exported.

■ 41. Section 44.61 is revised to read as follows:

§ 44.61 Removals, withdrawals, and shipments authorized.

(a) Tobacco products and cigarette papers and tubes may be removed from a factory or from an export warehouse, and cigars may be withdrawn from a customs bonded warehouse, without payment of tax for direct exportation or for delivery for subsequent exportation, in accordance with the provisions of this part.

(b) Tobacco products and cigarette papers and tubes are eligible for removal or transfer in bond under this part only if they bear the marks, labels, and notices required by this part.

■ 42. In § 44.62, the fifth sentence and the seventh sentence are revised to read as follows:

§ 44.62 Restrictions on deliveries of tobacco products and cigarette papers and tubes to vessels and aircraft, as supplies.

* * * For this purpose, the customs authorities may require the master of the receiving vessel to submit, prior to lading, customs documentation for permission to lade the articles. * * * Deliveries may be made to aircraft that are clearing through customs and that are enroute to a place beyond the

jurisdiction of the internal revenue laws of the United States, and to aircraft operating on a regular schedule between U.S. customs areas as defined in the Air Commerce Regulations (19 CFR part 122). * * *

* * * * *

■ 43. Section 44.142 is revised to read as follows:

§ 44.142 Records.

(a) *In general.* Each export warehouse proprietor must keep in the warehouse complete and concise records that show the:

(1) Number of containers;

(2) Unit type (for example: cartons, cases);

(3) Kinds of articles (for example: small cigarettes);

(4) Name of manufacturer and brand; and

(5) Quantity of tobacco products and cigarette papers and tubes, and any processed tobacco received, removed, transferred, destroyed, lost, or returned to manufacturers or to customs bonded warehouse proprietors.

(b) *Other records; form and retention.* In addition to the records specified in paragraph (a) of this section, the export warehouse proprietor must retain a copy of each TTB F 5200.14 from a manufacturer, another export warehouse proprietor, or a customs warehouse proprietor, from whom tobacco products or cigarette papers or tubes were received, as well as a copy of each TTB F 5200.14 covering the tobacco products and cigarette papers and tubes removed from the warehouse. The entries for each day in the records maintained under this section must be made by the close of the business day following the day on which the transactions occur. No particular form of records is prescribed, but the information required must be readily ascertainable. The copies of TTB F 5200.14 and other records must be retained for 3 years following the close of the calendar year in which the shipments were received or removed and must be made available for inspection by any appropriate TTB officer upon request.

■ 44. Section 44.181 is revised to read as follows:

§ 44.181 Packages.

All tobacco products and cigarette papers and tubes must, before removal or transfer under this subpart, be put up by the manufacturer in packages that bear the label or notice, tax classification, and mark, as required by this subpart. For purposes of this subpart, the package does not include the cellophane or other transparent exterior wrapping material.

Dated: April 10, 2013.

John J. Manfreda,

Administrator.

Approved: April 11, 2013.

Timothy E. Skud,

Deputy Assistant Secretary, (Tax, Trade, and Tariff Policy).

[FR Doc. 2013–15254 Filed 6–26–13; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Parts 594, 595, and 597

Technical Amendments to Counter-Terrorism Sanctions Regulations Implemented by OFAC

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control ("OFAC") of the U.S. Department of the Treasury is amending the Global Terrorism Sanctions Regulations and the Terrorism Sanctions Regulations (the "TSR") to clarify the scope of prohibitions on the making of donations contained in the underlying Executive orders and that a person whose property and interests in property are blocked pursuant to those programs has an interest in all property and interests in property of an entity in which it owns, directly or indirectly, a 50 percent or greater interest. In addition, OFAC is amending the TSR to add a definition of the term "financial, material, or technological support" and to set at 180 days the maximum term of maturity for instruments in which funds may be invested or held within a blocked interest-bearing account. Finally, OFAC is correcting a clerical error within the Foreign Terrorist Organizations Sanctions Regulations.

DATES: *Effective:* June 27, 2013.

FOR FURTHER INFORMATION CONTACT: Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490, Assistant Director for Licensing, tel.: 202–622–2480, Assistant Director for Policy, tel.: 202–622–2746, Assistant Director for Regulatory Affairs, tel.: 202–622–4855, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202–622–2410, Office of the General Counsel, Department of the Treasury, Washington, DC 20220 (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treasury.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs also is available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Background

The Office of Foreign Assets Control ("OFAC") administers three sanctions programs with respect to terrorists and terrorist organizations. The Terrorism Sanctions Regulations, 31 CFR part 595 (the "TSR"), implement Executive Order 12947 of January 23, 1995, in which the President declared a national emergency with respect to "grave acts of violence committed by foreign terrorists that disrupt the Middle East peace process." The Global Terrorism Sanctions Regulations, 31 CFR part 594 (the "GTSR"), implement Executive Order 13224 of September 23, 2001, in which the President declared a national emergency more generally with respect to "grave acts of terrorism and threats of terrorism committed by foreign terrorists." The Foreign Terrorist Organizations Sanctions Regulations, 31 CFR part 597 (the "FTOSR"), implement provisions of the Antiterrorism and Effective Death Penalty Act of 1996.

Executive Order 13372 of February 16, 2005, amended section 3 of Executive Order 12947 and section 4 of Executive Order 13224 to clarify that the prohibitions contained in those sections on the making of donations of the types of articles specified in section 203(b)(2) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)(2)) apply to donations "by, to, or for the benefit of" and not just "to" persons whose property and interests in property are blocked pursuant to those orders. OFAC is amending sections 594.204 and 594.409 of the GTSR and sections 595.204 and 595.408 of the TSR to incorporate this clarification into its regulations.

OFAC also is adding new interpretive sections 594.412 and 595.410 to the GTSR and TSR, respectively, to clarify that a person whose property and interests in property are blocked pursuant to those programs has an interest in all property and interests in property of an entity in which it owns, directly or indirectly, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to the relevant sanctions

program, regardless of whether the entity itself is listed in an annex to an Executive order or designated pursuant to statutory or regulatory authorities. Further, OFAC is adding references to these new interpretive sections to note 2 to paragraph (a) of section 594.201 of the GTSR and new note 1 to section 595.311 of the TSR.

OFAC is amending the TSR to define the term "financial, material, or technological support," as used in those regulations. Paragraph (a)(2)(ii) of section 595.311 of the TSR implements section 1(a)(ii)(B) of Executive Order 12947 by including within the definition of "specially designated terrorist" foreign persons designated by the Secretary of State, in coordination with the Secretary of the Treasury and the Attorney General, because they are found to have assisted in, sponsored, or provided financial, material, or technological support for, or services in support of, acts of violence that have the purpose or effect of disrupting the Middle East peace process.

New section 595.317 in subpart C of the TSR defines the term "financial, material, or technological support" to mean any property, tangible or intangible, and includes a list of specific examples. The corresponding definition already appears in the GTSR, in existing section 594.317. The term is not used in the FTOSR.

In addition, OFAC is revising paragraph (b) of section 595.203 of the TSR to set at 180 days the maximum term of maturity for instruments in which funds within an interest-bearing account, as defined within that paragraph, may be invested or held. Previously, the maximum term of maturity for such instruments was set at 90 days, which is not consistent with the maximum term of maturity set out in analogous provisions under the regulations for other OFAC-administered sanctions programs contained in the various parts of 31 CFR chapter V.

Finally, OFAC is making certain technical edits to definitions contained in the GTSR and TSR and revising the note to section 597.301 of the FTOSR to correct a clerical error.

Public Participation

Because these amendments to 31 CFR parts 594, 595, and 597 involve a foreign affairs function, Executive Order 12866 and the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

List of Subjects 31 CFR Parts 594, 595, and 597

Administrative practice and procedure, Banks, Banking, Blocking of assets, Terrorism.

For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control amends 31 CFR parts 594, 595, and 597 as follows:

PART 594—GLOBAL TERRORISM SANCTIONS REGULATIONS

■ 1. The authority citation for part 594 is revised to read as follows:

Authority: 3 U.S.C. 301; 22 U.S.C. 287c; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; E.O. 13268, 67 FR 44751, 3 CFR, 2002 Comp., p. 240; E.O: 13284, 68 FR 4075, 3 CFR, 2003 Comp., p. 161; E.O. 13372, 70 FR 8499, 3 CFR, 2006 Comp., p. 159.

Subpart B—Prohibitions

■ 2. In § 594.201, revise Note 2 to paragraph (a) to read as follows:

§ 594.201 Prohibited transactions involving blocked property.

* * * * *

Note 2 to paragraph (a) of § 594.201: The names of persons whose property and interests in property are blocked pursuant to § 594.201(a) are published in the **Federal Register** and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List ("SDN List") with the identifier "[SDGT]." The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: *http://www.treasury.gov/sdn*. Additional information pertaining to the SDN List can be found in appendix A to this chapter. *See* § 594.412 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to paragraph (a) of this section.

* * * * *

■ 3. Revise § 594.204 to read as follows:

§ 594.204 Prohibited transaction or dealing in property; contributions of funds, goods, or services.

Except as otherwise authorized, no U.S. person may engage in any transaction or dealing in property or interests in property of persons whose property and interests in property are blocked pursuant to § 594.201(a), including but not limited to the following transactions:

(a) The making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to § 594.201(a); and

(b) The receipt of any contribution or provision of funds, goods, or services from any person whose property and interests in property are blocked pursuant to § 594.201(a).

Subpart C—General Definitions

■ 4. Revise § 594.310 to read as follows:

§ 594.310 Specially designated global terrorist; SDGT.

The term *specially designated global terrorist* or *SDGT* means any person whose property and interests in property are blocked pursuant to § 594.201(a).

Subpart D—Interpretations

■ 5. Revise § 594.409 to read as follows:

§ 594.409 Charitable contributions.

Unless specifically authorized by the Office of Foreign Assets Control pursuant to this part, no charitable contribution or donation of funds, goods, services, or technology, including contributions or donations to relieve human suffering, such as food, clothing, or medicine, may be made by, to, or for the benefit of, or received from, any person whose property and interests in property are blocked pursuant to § 594.201(a). For the purposes of this part, a contribution or donation is made by, to, or for the benefit of, or received from, any person whose property and interests in property are blocked pursuant to § 594.201(a) if made by, to, or in the name of, or received from or in the name of, such a person; if made by, to, or in the name of, or received from or in the name of, an entity or individual acting for or on behalf of, or owned or controlled by, such a person; or if made in an attempt to violate, to evade, or to avoid the bar on the provision of contributions or donations by, to, or for the benefit of such a person, or the receipt of contributions or donations from any such person.

■ 6. Add § 594.412 to subpart D to read as follows:

§ 594.412 Entities owned by a person whose property and interests in property are blocked.

A person whose property and interests in property are blocked pursuant to § 594.201(a) has an interest in all property and interests in property of an entity in which it owns, directly or indirectly, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are

blocked, and such an entity is a person whose property and interests in property are blocked pursuant to § 594.201(a), regardless of whether the entity itself is listed in the Annex to Executive Order 13224, as amended, or designated pursuant to § 594.201(a).

PART 595—TERRORISM SANCTIONS REGULATIONS

■ 7. The authority citation for part 595 is revised to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 319; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13372, 70 FR 8499, 3 CFR, 2006 Comp., p. 159.

Subpart B—Prohibitions

■ 8. In § 595.203, revise paragraph (b) to read as follows:

§ 595.203 Holding of certain types of blocked property in interest-bearing accounts.

* * * * *

(b) For purposes of this section, the term *interest-bearing account* means a blocked account in a U.S. financial institution earning interest at rates that are commercially reasonable for the amount of funds in the account. Except as otherwise authorized, the funds may not be invested or held in instruments the maturity of which exceeds 180 days.

* * * * *

■ 9. Revise § 595.204 to read as follows:

§ 595.204 Prohibited transaction or dealing in property; contributions of funds, goods, or services.

Except as otherwise authorized, no U.S. person may deal in property or interests in property of a *specially designated terrorist*, including but not limited to the following transactions:

(a) The making of any contribution or provision of funds, goods, or services by, to, or for the benefit of a *specially designated terrorist;* and

(b) The receipt of any contribution or provision of funds, goods, or services from a *specially designated terrorist.*

Subpart C—General Definitions

■ 10. In § 595.311, revise paragraph (a)(1), remove the Note to § 595.311, and add Notes 1, 2, and 3 to read as follows:

§ 595.311 Specially designated terrorist.

(a) * * *

(1) Persons listed in the Annex to Executive Order 12947 of January 23, 1995, as amended;

* * * * *

Note 1 to § 595.311: The names of persons determined to fall within this definition, whose property and interests in property therefore are blocked pursuant to this part, are published in the **Federal Register** and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List ("SDN List") with the identifier "[SDT]." The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: *http://www.treasury.gov/sdn.* Additional information pertaining to the SDN List can be found in appendix A to this chapter. *See* § 595.410 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to this part.

Note 2 to § 595.311: The International Emergency Economic Powers Act (50 U.S.C. 1701–1706), in Section 203 (50 U.S.C. 1702), authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to this part also are published in the **Federal Register** and incorporated into the SDN List with the identifier "[BPI–SDT]."

Note 3 to § 595.311: Section 501.807 of this chapter sets forth the procedures to be followed by persons seeking administrative reconsideration of their designation, or who wish to assert that the circumstances resulting in the designation are no longer applicable.

■ 11. Add § 595.317 to subpart C to read as follows:

§ 595.317 Financial, material, or technological support.

The term *financial, material, or technological support,* as used in § 595.311(a)(2)(ii) of this part, means any property, tangible or intangible, including but not limited to currency, financial instruments, securities, or any other transmission of value; weapons or related materiel; chemical or biological agents; explosives; false documentation or identification; communications equipment; computers; electronic or other devices or equipment; technologies; lodging; safe houses; facilities; vehicles or other means of transportation; or goods. "Technologies" as used in this definition means specific information necessary for the development, production, or use of a product, including related technical data such as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals, or other recorded instructions.

Subpart D—Interpretations

■ 12. Revise § 595.408 to read as follows:

§ 595.408 Charitable contributions.

(a) Unless specifically authorized by the Office of Foreign Assets Control pursuant to this part, no charitable contribution or donation of funds, goods, services, or technology, including contributions or donations to relieve human suffering, such as food, clothing, or medicine, may be made by, to, or for the benefit of, or received from, any *specially designated terrorist.* For the purposes of this part, a contribution or donation is made by, to, or for the benefit of, or received from, a *specially designated terrorist* if made by, to, or in the name of, or received from or in the name of, a *specially designated terrorist;* if made by, to, or in the name of, or received from or in the name of, an entity or individual acting for or on behalf of, or owned or controlled by, a *specially designated terrorist;* or if made in an attempt to violate, to evade, or to avoid the bar on the provision of contributions or donations by, to, or for the benefit of a *specially designated terrorist,* or the receipt of contributions or donations from a *specially designated terrorist.*

(b) Individuals and organizations who donate or contribute funds, goods, services, or technology without knowledge or reason to know that the donation or contribution is destined to or for the benefit of a *specially designated terrorist* shall not be subject to penalties for such donation or contribution.

■ 13. Add § 595.410 to subpart D to read as follows:

§ 595.410 Entities owned by a person whose property and interests in property are blocked.

A person who is determined to fall within the definition of *specially designated terrorist* as set forth in § 595.311, whose property and interests in property therefore are blocked pursuant to this part, has an interest in all property and interests in property of an entity in which it owns, directly or indirectly, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to this part, regardless of whether the entity itself is listed in the Annex to Executive Order 12947, as amended, or designated pursuant to this part.

PART 597—FOREIGN TERRORIST ORGANIZATIONS SANCTIONS REGULATIONS

■ 14. The authority citation for part 597 continues to read as follows:

Authority: 31 U.S.C. 321(b); Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 104–132, 110 Stat. 1214, 1248–53 (8 U.S.C. 1189, 18 U.S.C. 2339B).

Subpart C—General Definitions

■ 15. In § 597.301, revise the Note to read as follows:

§ 597.301 Agent.

* * * * *

Note to § 597.301: The names of persons designated as foreign terrorist organizations or determined to fall within this definition are published in the **Federal Register** and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List ("SDN List") with the identifier "[FTO]." The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: *http://www.treasury.gov/sdn*. Additional information pertaining to the SDN List can be found in appendix A to this chapter. Section 501.807 of this chapter sets forth the procedures to be followed by a person seeking administrative reconsideration of a determination that the person falls within this definition, or who wishes to assert that the circumstances resulting in such a determination are no longer applicable.

Dated: June 21, 2013.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2013–15424 Filed 6–26–13; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2013–0114]

RIN 1625–AA08

Special Local Regulations; Red Bull Flugtag National Harbor Event, Potomac River; National Harbor Access Channel, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing special local regulations during the "Red Bull Flugtag National Harbor event", to be held on the waters of the Potomac River on September 21, 2013. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. These special local regulations will establish an event area, where all persons and vessels, except those persons and vessels participating in the Flugtag event, are prohibited from entering, transiting through, anchoring in or remaining within, and a spectator area, where all vessels are prohibited from transiting in excess of wake speed, unless authorized by the Captain of the Port Baltimore or his designated representative. This action is intended to temporarily restrict vessel traffic in a portion of the Potomac River during the event.

DATES: This rule is effective from 9 a.m. until 7 p.m. on September 21, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2013–0114]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Ronald Houck, U.S. Coast Guard Sector Baltimore, MD; telephone 410–576–2674, email *Ronald.L.Houck@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

On March 26, 2013, we published a notice of proposed rulemaking (NPRM) entitled "Special Local Regulations; Red Bull Flugtag National Harbor Event, Potomac River; National Harbor Access Channel, MD" in the **Federal Register** (78 FR 18274). We received no comments on the proposed rule. No public meeting was requested, and none was held.

B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish special local regulations: 33 U.S.C. 1233. The purpose of the rule is to ensure safety of life on navigable waters of the United States during the Red Bull Flugtag National Harbor event.

On September 21, 2013, The Peterson Companies of National Harbor, Maryland, is sponsoring the Red Bull Flugtag National Harbor event, a competition held along the Potomac River at National Harbor, Maryland. Approximately 30 competing teams will operate homemade, human-powered flying devices launched from a ramp constructed at National Harbor, located downriver from the Woodrow Wilson Memorial (I–495/I–95) Bridge, in Maryland. The competitors will be supported by sponsor-provided watercraft. The sponsor estimates 10,000 spectators during the event. The Coast Guard anticipates a large spectator vessel fleet present during the event.

C. Discussion of Comments, Changes and the Final Rule

The Coast Guard received no comments in response to the NPRM. No public meeting was requested and none was held.

The Coast Guard is establishing special local regulations on specified waters of the Potomac River. The regulations will be effective from 9 a.m. to 7 p.m. on September 21, 2013. The regulated area, approximately 600 yards in length and 500 yards in width and extends across the entire width of the National Harbor Access Channel, includes all waters of the Potomac River, contained within lines connecting the following points: From the shoreline at position latitude 38°46′51″ N, longitude 077°01′31″ W, thence northerly to position latitude 38°47′02″ N, longitude 077°01′35″ W, thence easterly to position latitude 38°47′05″ N, longitude 077°01′22″ W, thence southeasterly to the shoreline at position latitude 38°46′56″ N, longitude 077°01′07″ W. An event area and a designated spectator area exist within this regulated area. The event area, where all persons and vessels, except those persons and vessels participating in the competition, are prohibited from entering, transiting through, anchoring in, or remaining within, includes all waters of the Potomac River, contained within lines connecting the following points: From the shoreline at position latitude 38°46′51″ N, longitude 077°01′31″ W, thence northerly to position latitude 38°46′52″ N, longitude 077°01′31″ W, thence easterly to position latitude 38°46′54″ N, longitude 077°01′17″ W, thence northerly to position latitude 38°46′59″ N, longitude 077°01′14″ W, thence southeasterly to the shoreline at position latitude 38°46′56″ N, longitude 077°01′07″ W. The designated spectator area, where all vessels are prohibited from transiting in excess of wake speed unless authorized by the Captain of the Port Baltimore or his designated representative and persons and vessels may request

authorization to enter, transit through, anchor in, or remain within, includes all waters of the Potomac River, within lines connecting the following positions: from 38°46′53″ N, longitude 077°01′32″ W, thence northerly to latitude 38°47′02″ N, longitude 077°01′35″ W, thence easterly to position latitude 38°47′05″ N, longitude 077°01′22″ W, thence southeasterly to position latitude 38°47′02″ N, longitude 077°01′16″ W, thence southwesterly to position latitude 38°46′58″ N, longitude 077°01′18″ W, thence southwesterly to position latitude 38°46′55″ N, longitude 077°01′22″ W, thence westerly to position latitude 38°46′53″ N, longitude 077°01′32″ W.

The effect of this rule will be to restrict general navigation in the regulated area during the event. Vessels intending to transit the Potomac River through the regulated area, including the National Harbor Access Channel, will only be allowed to safely transit the regulated area when the Coast Guard Patrol Commander has deemed it safe to do so. Due to the need for vessel control during the event, the Coast Guard will temporarily restrict vessel traffic in the event area to provide for the safety of participants, spectators and other transiting vessels. The Coast Guard will provide notice of the special local regulations by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The economic impact of this rule is not significant for the following reasons: (1) The special local regulations will be enforced for only 10 hours; (2) although persons and vessels will not be able to enter, transit through, anchor in, or remain within the event area, without authorization from the Captain of the Port Baltimore or his designated representative, they may operate in the surrounding area during the enforcement period; (3) persons and vessels may still enter, transit through, anchor in, or remain within the designated spectator area during the enforcement period; (4) persons and vessels may still enter and transit through the National Harbor Access Channel, within the regulated area during the enforcement period, with prior authorization from the Captain of the Port Baltimore or his designated representative and without loitering; and (5) the Coast Guard will provide advance notification of the special local regulations to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of Potomac River encompassed within the special local regulations from 9 a.m. until 7 p.m. on September 21, 2013. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves special local regulations issued in conjunction with a regatta or marine parade. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add § 100.35–T05–0114 to read as follows:

§ 100.35–T05–0114 Special Local Regulations; Red Bull Flugtag National Harbor Event, Potomac River; National Harbor Access Channel, MD.

(a) *Regulated areas.* The following regulated areas are established as special local regulations. All coordinates are North American Datum 1983.

(1) *Regulated area.* All waters of the Potomac River, contained within lines connecting the following points: from the shoreline at position latitude 38°46′51″ N, longitude 077°01′31″ W, thence northerly to position latitude 38°47′02″ N, longitude 077°01′35″ W, thence easterly to position latitude 38°47′05″ N, longitude 077°01′22″ W, thence southeasterly to the shoreline at position latitude 38°46′56″ N, longitude 077°01′07″ W.

(2) *Event area.* All waters of the Potomac River, contained within lines connecting the following points: From the shoreline at position latitude 38°46′51″ N, longitude 077°01′31″ W, thence northerly to position latitude 38°46′52″ N, longitude 077°01′31″ W, thence easterly to position latitude 38°46′54″ N, longitude 077°01′17″ W, thence northerly to position latitude 38°46′59″ N, longitude 077°01′14″ W, thence southeasterly to the shoreline at position latitude 38°46′56″ N, longitude 077°01′07″ W.

(3) *Designated spectator area.* All waters of the Potomac River, within lines connecting the following positions: From 38°46′53″ N, longitude 077°01′32″ W, thence northerly to latitude 38°47′02″ N, longitude 077°01′35″ W, thence easterly to position latitude 38°47′05″ N, longitude 077°01′22″ W, thence southeasterly to position latitude 38°47′02″ N, longitude 077°01′16″ W, thence southwesterly to position latitude 38°46′58″ N, longitude 077°01′18″ W, thence southwesterly to position latitude 38°46′55″ N, longitude 077°01′22″ W, thence westerly to position latitude 38°46′53″ N, longitude 077°01′32″ W.

(b) *Definitions.* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the U.S. Coast Guard who has been designated by the Commander, Coast Guard Sector Baltimore.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant* means all persons and vessels participating in the Red Bull Flugtag National Harbor event under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Baltimore.

(4) *Spectator* means all persons and vessels not registered with the event sponsor as participants or official patrol.

(c) *Special local regulations.* (1) The Coast Guard Patrol Commander may forbid and control the movement of all vessels and persons in the regulated area. When hailed or signaled by an official patrol vessel, a vessel or person in the regulated area shall immediately comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(2) The Coast Guard Patrol Commander may terminate the event, or the operation of any participant in the event, at any time it is deemed necessary for the protection of life or property.

(3) All Coast Guard vessels enforcing this regulated area can be contacted on marine band radio VHF–FM channel 16 (156.8 MHz).

(4) Only participants and official patrol are allowed to enter the event area.

(5) Spectators are allowed inside the regulated area only if they remain within the designated spectator area. Spectators will be permitted to anchor within the designated spectator area. No vessel may anchor within the regulated area outside the designated spectator area. Spectators may contact the Coast Guard Patrol Commander to request permission to pass through the regulated area. If permission is granted, spectators must pass directly through the regulated area, outside the event area, at a safe speed and without loitering.

(6) The Coast Guard will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue a marine information broadcast on VHF–FM marine band radio announcing specific event date and times.

(d) *Enforcement period.* This section will be enforced from 9 a.m. until 7 p.m. on September 21, 2013.

Dated: May 1, 2013.

Kevin C. Kiefer,

Captain, U.S. Coast Guard, Captain of the Port Baltimore.

[FR Doc. 2013–15376 Filed 6–26–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2013–0368]

RIN 1625–AA08

Special Local Regulation; Tall Ships Celebration Bay City, Bay City, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation for a tall ships parade located in the Captain of the Port Detroit Zone. This action is necessary and intended to ensure safety of life and property on navigable waters during this event. This special local regulation will establish restrictions upon, and control movement of, vessels in a portion of the Captain of the Port Detroit Zone. During the enforcement period, no person or vessel may enter the regulated area without permission of the Captain of the Port.

DATES: This rule is effective from 12:30 p.m. until 4:30 p.m. on July 11, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2013–0368]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number in the "SEARCH" box, and click "Search." You may visit the Docket Management Facility, Department of Transportation, 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 FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email LT Adrian Palomeque, Prevention Department, Sector Detroit, Coast Guard; telephone (313) 568–9508, email *Adrian.F.Palomeque@uscg.mil*. If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. The final details for this Tall Ships parade were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be impracticable because it would inhibit the Coast Guard's ability to protect spectators, participants, and vessels from the hazards associated with this event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register.** For the same reasons discussed in the preceding paragraph, waiting for a 30 day notice period run would be impracticable and contrary to the public interest.

Although this is the Coast Guard's first regulatory act for the celebration specific to Bay City, MI, the Coast Guard recently published a separate NPRM in the **Federal Register** seeking to establish safety zones around each tall ship participating in various events throughout the Great Lakes this summer, to include the Tall Ships Celebration Bay City. Specifically, on May 1, 2013, the Coast Guard published in the **Federal Register** an NPRM titled Safety Zone; Tall Ship Safety Zones; War of 1812 Bicentennial Commemoration, Great Lakes (78 FR 25410), proposing to establish temporary safety zones around each of the twenty-one tall ships participating in the Tall Ships Challenge Great Lakes 2013 from June 13, 2013 to September 17, 2013.

B. Basis and Purpose

Between 12:30 p.m. until 4:30 p.m. on July 11, 2013, the Tall Ships Celebration Bay City 2013 parade will take place in a portion of Saginaw Bay and the Saginaw River. This portion of waterway will need to be clear of vessel traffic during the parade.

Even though the Coast Guard has separately proposed a 100 yards radius safety zone around each tall ship participating in events throughout the Great Lakes, to include Bay City's celebration, the Captain of the Port Detroit has determined that these safety zones will be insufficient on their own to safeguard navigational safety in a portion of Saginaw Bay and the Saginaw River during the Tall Ships Celebration parade on July 11, 2013. The high possibility that tall ships participating in the parade on July 11, 2013 will encounter recreational and commercial vessels in the relatively narrow navigable channel of the Saginaw River, compounded with the decreased maneuverability of these tall ships, poses extra and unusual hazards to public safety and property. Moreover, the Captain of the Port Detroit has determined that the existing navigational rules of the road are not sufficient to protect the public against these extra and unusual hazards. Thus, the Captain of the Port Detroit has determined that establishing a Special Local Regulation, pursuant to the authority in 33 U.S.C. 1233, throughout the parade course will help ensure the safety of life during this event.

C. Discussion of Rule

In light of the aforesaid hazards, the Captain of the Port Detroit has determined that a special local regulation is necessary to ensure the safety of spectators, vessels, and participants. This special local regulation will be enforced from 12:30 p.m. until 4:30 p.m. on July 11, 2013. The special local regulation will encompass all waters throughout the federal navigational channel of Saginaw Bay from Light Buoy 11 at position 43°43′54″ N, 083°46′52″ W and Light 12 at position 43°43′56″ N, 083°46′57″ W to the Saginaw River, and on all waters of the Saginaw River from its mouth to the Veterans Memorial Bridge in Bay City, MI at position 43°35′46″ N, 083°53′36″ W. All geographic coordinates are North American Datum of 1983 (NAD 83). Entry into, transiting, or anchoring within the proposed regulated area while it is being enforced is prohibited unless authorized by the authority of the Captain of the Port Detroit or his designated on-scene representative. The

Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under that Orders. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues.

The Coast Guard's use of this special local regulation will be of relatively small size and short duration, and it is designed to minimize its impact on navigation. Furthermore, vessels may, when circumstances allow, obtain permission from the Captain of the Port to transit through the area affected by this special local regulation. Overall, the Coast Guard expects minimal impact to vessel movement from the enforcement of this special local regulation.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of Saginaw Bay beginning at Light Buoy 11 at position 43°43′54″ N, 083°46′52″ W and Light 12 at position 43°43′56″ N, 083°46′57″ W to the Saginaw River, and on a portion of the Saginaw River from its mouth to the Veterans Memorial Bridge in Bay City, MI at position 43°35′46″ N, 083°53′36″ W between 12:30 p.m. and 4:30 p.m. on July 11, 2013.

This special local regulation will not have a significant economic impact on a substantial number of small entities for the following reasons: This regulated area will only be in effect and enforced for four hours on one day. Additional vessel traffic may be allowed to pass through the zone with the permission of the Captain of the Port. The Captain of the Port can be reached via VHF channel 16. The Coast Guard will give notice to the public via a Broadcast Notice to Mariners that the regulation is in effect, allowing vessel owners and operators to plan accordingly.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If this rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

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

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children From Environmental Health Risks

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes.

or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation issued in conjunction with a regatta or marine parade, and, therefore it is categorically excluded from further review under paragraph (34)(h) of Figure 2–1 of the Commandant Instruction. During the annual permitting process for this event an environmental analysis was conducted, and thus, no preliminary environmental analysis checklist or Categorical Exclusion Determination are required for this rulemaking action.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add § 100.T09–0368 to read as follows:

§ 100.T09–0368 Special Local Regulation; Tall Ships Celebration Bay City, Bay City, MI.

(a) *Regulated area.* All waters of the federal navigational channel of Saginaw Bay from Light Buoy 11 at position 43°43′54″ N, 083°46′52″ W and Light 12 at position 43°43′56″ N, 083°46′57″ W, to the Saginaw River, and all waters of the Saginaw River from its mouth to the Veterans Memorial Bridge in Bay City, MI at position 43°35′46″ N, 083°53′36″ W. All geographic coordinates are North American Datum of 1983 (NAD 83).

(b) *Effective and enforcement period.* This special local regulation is effective and will be enforced from 12:30 p.m. until 4:30 p.m. on July 11, 2013. The Captain of the Port Detroit may suspend enforcement of this special local regulation at any time. In the event that the enforcement is ended early, the Captain of the Port Detroit will notify the public via Broadcast Notice to Mariners.

(c) *Regulations.* (1) No vessel may enter, transit through, or anchor within the regulated area unless authorized by the Captain of the Port Detroit, or his designated on-scene representative.

(2) The "on-scene representative" of the Captain of the Port, Sector Detroit is any Coast Guard commissioned, warrant or petty officer or a Federal, State, or local law enforcement officer designated by or assisting the Captain of the Port, Sector Detroit to act on his behalf.

(3) Vessel operators desiring to enter or operate within the regulated area shall contact the Captain of the Port Detroit or his on-scene representative to obtain permission to do so. The Captain of the Port Detroit or his on-scene representative may be contacted via VHF Channel 16 or at 313–568–9464. Vessel operators given permission to enter or operate in the regulated area must comply with all directions given to them by the Captain of the Port Detroit, or his on-scene representative.

Dated: June 10, 2013.

J.E. Ogden,

Captain, U.S. Coast Guard, Captain of the Port Detroit.

[FR Doc. 2013–15377 Filed 6–26–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2013–0384]

RIN 1625–AA00

Safety Zones; Multiple Firework Displays in Captain of the Port, Puget Sound Zone

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing safety zones in Holmes Harbor, Elliot Bay Pier 90, and Southeast of Alki Point Light (approx. 1500 yds.) for various summer fireworks displays. The safety zones are necessary to help ensure the safety of the maritime public during the displays and will do so by prohibiting all persons and vessels from entering the safety zones unless authorized by the Captain of the Port or his designated representative.

DATES: This rule is effective from 5 p.m. on July 3, 2013, until 1 a.m. on July 21, 2013. This rule will be enforced on the dates and times listed in the **SUPPLEMENTARY INFORMATION** section.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2013–0384]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email ENS Nathaniel P. Clinger, Coast Guard Sector Puget Sound, Waterways Management Division; telephone 206–217–6045, email *SectorPugetSoundWWM@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is

impracticable. The Coast Guard did not receive finalized details about these events until it was too late to undertake an NPRM. These safety zones are necessary to protect spectators and participants from the hazards associated with fireworks displays.

For the same reasons as noted earlier, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Any delay in the effective date of this rule would be impracticable and contrary to the public interest because immediate action is necessary to provide for the safety of life and property on the navigable waters.

B. Basis and Purpose

The legal basis for the proposed rule is 33 U.S.C 1231; 46 U.S.C Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to establish safety zones.

Fireworks displays create hazardous conditions for the maritime public because of the large number of vessels that congregate near the displays as well as the noise, falling debris, and explosions that occur during the event. The establishment of a safety zone around displays helps to ensure the safety of the maritime public by prohibiting all persons and vessels from coming too close to the fireworks display and the associated hazards.

C. Discussion of the Final Rule

This rule establishes three safety zones for the following firework displays: Celebrate America Festival on July 3, 2013, in Holmes Harbor near Freeland, WA; Invictus Christening on July 6, 2013 in Elliot Bay, Pier 90; and Tuxedo and Tennis Shoes Event on July 20, 2013, near Alki Point Light. All persons and vessels will be prohibited from entering the safety zones during the dates and times they are effective unless authorized by the Captain of the Port or his Designated Representative.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. This rule is not a significant regulatory action because it creates safety zones that are minimal in size and short in duration.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit through the established safety zones during the times of enforcement. This rule will not have a significant economic impact on a substantial number of small entities because the temporary safety zones are minimal in size and short in duration, maritime traffic will be able to transit around them and may be permitted to transit them with permission from the Captain of the Port or his designated representative.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INTFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of safety zones. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapters 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T13–247 to read as follows:

§ 165.T13–247 Safety Zones; Multiple Firework Displays in Captain of the Port, Puget Sound Zone

(a) *Location.* The following areas are designated as safety zones:

(1) *Celebrate America Festival, Holmes Harbor, Freeland, WA:* All waters encompassed within a 200 yard radius around position 48°01′2.89″ N, 122°31′51.98″ W.

(2) *Invictus Christening, Elliot Bay, Pier 90, Seattle, WA:* All waters encompassed within a 300 yard radius around position 47°37′18.96″ N, 122°22′49.26″ W.

(3) *Tuxedo and Tennis Shoes Event, SE of Alki Point Light, Seattle, WA:* All waters encompassed within a 250 yard radius around position 47°33′54″ N, 122°24′43.2″ W.

(b) *Regulations.* In accordance with the general regulations in 33 CFR part 165, Subpart C, no person or vessel may enter or remain in the safety zone created by this section without the permission of the Captain of the Port or his designated representative. Designated representatives are Coast Guard Personnel authorized by the Captain of the Port to grant persons or vessels permission to enter or remain in the safety zone created by this section. See 33 CFR part 165, Subpart C, for additional information and requirements.

(c) *Enforcement Period.* The safety zones created by this section will be enforced as follows:

(1) *Celebrate America Festival, Holmes Harbor, Freeland, WA:* 5 p.m. on July 3, 2013, until 1 a.m. on July 4, 2013.

(2) *Invictus Christening, Elliot Bay, Pier 90, Seattle, WA:* 5 p.m. on July 6, 2013, until 1 a.m. on July 7, 2013.

(3) *Tuxedo and Tennis Shoes Event, SE of Alki Point Light, Seattle, WA:* 5 p.m. on July 20, 2013, until 1 a.m. on July 21, 2013.

Dated: June 1, 2013.

S.J. Ferguson,

Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. 2013–15309 Filed 6–26–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2013–0388]

RIN 1625–AA00

Safety Zone; San Diego Symphony Summer POPS Fireworks 2013 Season, San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the navigable waters of San Diego Bay in support of the San Diego Symphony Summer POPS Fireworks 2013 season. This safety zone is necessary to provide for the safety of the participants, crew, spectators, participating vessels, and other vessels and users of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

DATES: This rule is effective from 9 p.m. on June 27, 2013, to 10 p.m. on September 1, 2013. This rule will be enforced from 9 p.m. to 10 p.m. on the following evenings: June 27 through June 29, July 5, 6, 12, 13, 19, 20, 26, and 27, August 2, 3, 9 10, 16, 17, 23, 24, 30, 31, and September 1, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2013–0388]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Deborah Metzger, Waterways Management, U.S. Coast Guard Sector San Diego, Coast Guard; telephone 619–278–7656, email *d11-pf-marineeventssandiego@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because publishing an NPRM would be impracticable. The Coast Guard did not receive necessary information from the event sponsor in time to publish a notice of proposed rulemaking. The event is scheduled to take place, and as such, immediate action is necessary to ensure the safety of vessels, spectators, participants, and others in the vicinity of the marine event on the dates and times this rule will be in effect.

Under 5 U.S.C. 553(d)(3), for the same reasons mentioned above, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be contrary to the public interest, since immediate action is needed to ensure the public's safety.

B. Basis and Purpose

The legal basis for this temporary rule is the Ports and Waterways Safety Act which authorizes the Coast Guard to establish safety zones (33 U.S.C sections 1221 et seq.).

Fireworks America is sponsoring the San Diego Symphony Summer POPS, which will include a fireworks presentation from a barge in San Diego Bay. The fireworks display is scheduled to occur between 9 p.m. on June 27, 2013, to 10 p.m. on September 1, 2013. This rule will be enforced from 9 p.m. on June 27, 2013 to 10 p.m. on September 1, 2013. This rule will be enforced from 9 p.m. to 10 p.m. on the following evenings: June 27 through June 29, July 5, 6, 12, 13, 19, 20, 26, and 27, August 2, 3, 9 10, 16, 17, 23, 24, 30, 31, and September 1, 2013. This safety zone is necessary to provide for the safety of the crew, spectators, participants, and other vessels and users of the waterway.

C. Discussion of the Final Rule

The Coast Guard is establishing a safety zone that will be enforced from 9 p.m. on June 27, 2013, to 10 p.m. on September 1, 2013. This rule will be enforced from 9 p.m. on June 27, 2013, to 10 p.m. on September 1, 2013. This rule will be enforced from 9 p.m. to 10 p.m. on the following evenings; June 27 through June 29, July 5, 6, 12, 13, 19, 20, 26, and 27, August 2, 3, 9 10, 16, 17, 23, 24, 30, 31, and September 1, 2013. The safety zone will cover all navigable waters within 400 feet of the fireworks barge, located in approximate position 32°42′16″ N, 117°09′59″ W. The safety zone is necessary to provide for the safety of the crew, spectators, participants, and other vessels and users of the waterway. When this safety zone is being enforced, persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. This determination is based on the size, location and timing of the safety zone. The safety zone will be enforced for a relatively short time, 60 minutes, late at night when vessel traffic is low. It impacts a very small area of San Diego Bay, a circle about 800 feet in diameter. Commercial vessels will not be hindered by the safety zone. Recreational vessels can transit around the safety zone.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of San Diego Bay between 9 p.m. on June 27, 2013 to 10 p.m. on September 1, 2013. This rule will be enforced from 9 p.m. on June 27, 2013 to 10 p.m. on September 1, 2013. This rule will be enforced from 9 p.m. to 10 p.m. on the following evenings: June 27 through June 29, July 5, 6, 12, 13, 19, 20, 26, and 27, August 2, 3, 9 10, 16, 17, 23, 24, 30, 31, and September 1, 2013.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: The safety zone will only be in effect for one hour and 10 minutes late in the evening when vessel traffic is low. It impacts a very small area of San Diego Bay, a circle about 800 feet in diameter. Vessel traffic can transit safely around the safety zone.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the

Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishment of a temporary safety zone. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T11–568 to read as follows:

§ 165.T11–568 Safety Zone; San Diego Symphony Summer POPS Fireworks 2013 Season, San Diego, CA.

(a) *Location.* The safety zone will include the area within 600 feet of the fireworks barge in approximate position 32°42′16″ N, 117°09′59″ W.

(b) *Enforcement Period.* This rule will be enforced from 9 p.m. on June 27, 2013 to 10 p.m. on September 1, 2013. This rule will be enforced from 9 p.m. to 10 p.m. on the following evenings: June 27 through June 29, July 5, 6, 12, 13, 19, 20, 26, and 27, August 2, 3, 9, 10, 16, 17, 23, 24, 30, 31, and September 1, 2013.

(c) *Definitions.* The following definition applies to this section: *Designated representative* means any commissioned, warrant, or petty officer of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, or federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port.

(d) *Regulations.* (1) In accordance with general regulations in 33 CFR Part 165, Subpart C, entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port of San Diego or his designated representative.

(2) Mariners requesting permission to transit through the safety zone may request authorization to do so from the Sector San Diego Command Center. The Command Center may be contacted on VHF–FM Channel 16.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or his designated representative.

(4) Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

(5) The Coast Guard may be assisted by other federal, state, or local agencies.

Dated: June 13, 2013.

S.M. Mahoney,

Captain, United States Coast Guard, Captain of the Port San Diego.

[FR Doc. 2013–15496 Filed 6–26–13; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2009–0449; A–1–FRL–9797–2]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Reasonably Available Control Technology for the 1997 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan (SIP) revisions submitted by the State of Connecticut. These SIP revisions consist of a demonstration that Connecticut meets the requirements of reasonably available control technology (RACT) for oxides of nitrogen (NO_X) and volatile organic compounds (VOCs) set forth by the Clean Air Act with respect to the 1997 8-hour ozone standard. Additionally, we are approving three single source orders. This action is being taken in accordance with the Clean Air Act.

DATES: This rule is effective on July 29, 2013.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2009–0449. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at the Bureau of Air Management, Department of Energy and Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

FOR FURTHER INFORMATION CONTACT: Bob McConnell, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (mail code: OEP05–2), Boston, MA 02109–3912, telephone number (617) 918–1046, fax number (617) 918–0046, email *mcconnell.robert@epa.gov*.

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

Organization of this document: The following outline is provided to aid in locating information in this preamble.

I. Background and Purpose

On January 23, 2013 (78 FR 4800), EPA published a Notice of Proposed Rulemaking (NPR) for the State of Connecticut. That action proposed approval of a State Implementation Plan (SIP) revision request submitted by the Connecticut Department of Environmental Protection on December 8, 2006, consisting of information documenting how Connecticut complied with the reasonably available control technology requirements for the 1997 8-hour ozone standard.[1] Additionally, our January 23, 2013 NPR proposed approval of three single source orders establishing reasonably available control technology for controlling volatile organic compound emissions that Connecticut submitted to EPA on July 20, 2007.

II. Connecticut's Reasonably Available Control Technology Certification

On December 8, 2006, the Connecticut Department of Environmental Protection, which was subsequently reorganized and is currently known as the Connecticut Department of Energy and Environmental Protection (CT DEEP), submitted a demonstration that its regulatory framework for stationary sources meets the criteria for RACT as defined in EPA's Phase 2 Implementation rule.[2] The state held a public hearing on the RACT program on October 18, 2006.

The state's submittal identifies the specific control measures that have been previously adopted to control emissions from major sources of VOC emissions, reaffirms negative declarations for some control technique guideline (CTG) categories, and describes updates made to two existing rules to strengthen them so that they will continue to represent VOC RACT. Connecticut notes that sections 22a–174–20 and 22a–174–32 of the Regulations of Connecticut State Agencies (RSA) are the principal regulations that apply to stationary sources of VOC emissions. Connecticut's submittal makes negative declarations for the following CTG sectors:

1. Automobile coating;
2. Large petroleum dry cleaners;
3. Large appliance coating;
4. Natural gas and gas processing plants;
5. Flat wood paneling coating; and
6. Control of VOC leaks from petroleum refineries.

Connecticut's submittal addresses NO_X emissions as well as VOC emissions. In particular, Connecticut identified Regulations of Connecticut State Agencies (RCSA) section 22a–174–22, "Control of Nitrogen Oxide Emissions," as its primary NO_X RACT regulation. In addition, RCSA section 22a–174–38 regulates NO_X emissions from Connecticut's six municipal waste combustors (MWCs), which constitute roughly thirty percent of the state's annual NO_X emissions from major NO_X sources. Connecticut indicates that section 22a–174–38 is as stringent as the maximum achievable control technology (MACT) requirements EPA promulgated in 2006, and that this rule thus represents RACT for MWCs in Connecticut.

EPA has reviewed Connecticut's determination that it has adopted VOC and NO_X control regulations for stationary sources that constitute RACT, and determined that the Connecticut regulations cited above constitute RACT for purposes of the 1997 8-hour ozone standard.

Additionally, EPA has determined that Connecticut's two ozone nonattainment areas attained the 1997 8-hour ozone standard by their attainment date, based on quality assured air monitoring data. These determinations were published on August 31, 2010 (75 FR 53219) for the Greater Connecticut area, and on June 18, 2012 (77 FR 36163) for the New York City area. The improvements in air quality represented by these clean data determinations were brought about, in part, by the RACT program implemented by Connecticut.

Other specific requirements of Connecticut's RACT certification and

[1] The Connecticut submittal was made to address RACT for the 1997 8-hour ozone standard and does not address the 0.075 parts per million 2008 ozone standard.

[2] See 70 FR 71612, November 29, 2005.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishment of a temporary safety zone. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T11–568 to read as follows:

§ 165.T11–568 Safety Zone; San Diego Symphony Summer POPS Fireworks 2013 Season, San Diego, CA.

(a) *Location.* The safety zone will include the area within 600 feet of the fireworks barge in approximate position 32°42′16″ N, 117°09′59″ W.

(b) *Enforcement Period.* This rule will be enforced from 9 p.m. on June 27, 2013 to 10 p.m. on September 1, 2013. This rule will be enforced from 9 p.m. to 10 p.m. on the following evenings: June 27 through June 29, July 5, 6, 12, 13, 19, 20, 26, and 27, August 2, 3, 9, 10, 16, 17, 23, 24, 30, 31, and September 1, 2013.

(c) *Definitions.* The following definition applies to this section: *Designated representative* means any commissioned, warrant, or petty officer of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, or federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port.

(d) *Regulations.* (1) In accordance with general regulations in 33 CFR Part 165, Subpart C, entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port of San Diego or his designated representative.

(2) Mariners requesting permission to transit through the safety zone may request authorization to do so from the Sector San Diego Command Center. The Command Center may be contacted on VHF–FM Channel 16.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or his designated representative.

(4) Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

(5) The Coast Guard may be assisted by other federal, state, or local agencies.

Dated: June 13, 2013.

S.M. Mahoney,

Captain, United States Coast Guard, Captain of the Port San Diego.

[FR Doc. 2013–15496 Filed 6–26–13; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2009–0449; A–1–FRL–9797–2]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Reasonably Available Control Technology for the 1997 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan (SIP) revisions submitted by the State of Connecticut. These SIP revisions consist of a demonstration that Connecticut meets the requirements of reasonably available control technology (RACT) for oxides of nitrogen (NO_X) and volatile organic compounds (VOCs) set forth by the Clean Air Act with respect to the 1997 8-hour ozone standard. Additionally, we are approving three single source orders. This action is being taken in accordance with the Clean Air Act.

DATES: This rule is effective on July 29, 2013.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2009–0449. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at the Bureau of Air Management, Department of Energy and Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

FOR FURTHER INFORMATION CONTACT: Bob McConnell, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (mail code: OEP05–2), Boston, MA 02109–3912, telephone number (617) 918–1046, fax number (617) 918–0046, email *mcconnell.robert@epa.gov*.

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

Organization of this document: The following outline is provided to aid in locating information in this preamble.

I. Background and Purpose

On January 23, 2013 (78 FR 4800), EPA published a Notice of Proposed Rulemaking (NPR) for the State of Connecticut. That action proposed approval of a State Implementation Plan (SIP) revision request submitted by the Connecticut Department of Environmental Protection on December 8, 2006, consisting of information documenting how Connecticut complied with the reasonably available control technology requirements for the 1997 8-hour ozone standard.[1] Additionally, our January 23, 2013 NPR proposed approval of three single source orders establishing reasonably available control technology for controlling volatile organic compound emissions that Connecticut submitted to EPA on July 20, 2007.

II. Connecticut's Reasonably Available Control Technology Certification

On December 8, 2006, the Connecticut Department of Environmental Protection, which was subsequently reorganized and is currently known as the Connecticut Department of Energy and Environmental Protection (CT DEEP), submitted a demonstration that its regulatory framework for stationary sources meets the criteria for RACT as defined in EPA's Phase 2 Implementation rule.[2] The state held a public hearing on the RACT program on October 18, 2006.

The state's submittal identifies the specific control measures that have been previously adopted to control emissions from major sources of VOC emissions, reaffirms negative declarations for some control technique guideline (CTG) categories, and describes updates made to two existing rules to strengthen them so that they will continue to represent VOC RACT. Connecticut notes that sections 22a–174–20 and 22a–174–32 of the Regulations of Connecticut State Agencies (RSA) are the principal regulations that apply to stationary sources of VOC emissions. Connecticut's submittal makes negative declarations for the following CTG sectors:

1. Automobile coating;
2. Large petroleum dry cleaners;
3. Large appliance coating;
4. Natural gas and gas processing plants;
5. Flat wood paneling coating; and
6. Control of VOC leaks from petroleum refineries.

Connecticut's submittal addresses NO_X emissions as well as VOC emissions. In particular, Connecticut identified Regulations of Connecticut State Agencies (RCSA) section 22a–174–22, "Control of Nitrogen Oxide Emissions," as its primary NO_X RACT regulation. In addition, RCSA section 22a–174–38 regulates NO_X emissions from Connecticut's six municipal waste combustors (MWCs), which constitute roughly thirty percent of the state's annual NO_X emissions from major NO_X sources. Connecticut indicates that section 22a–174–38 is as stringent as the maximum achievable control technology (MACT) requirements EPA promulgated in 2006, and that this rule thus represents RACT for MWCs in Connecticut.

EPA has reviewed Connecticut's determination that it has adopted VOC and NO_X control regulations for stationary sources that constitute RACT, and determined that the Connecticut regulations cited above constitute RACT for purposes of the 1997 8-hour ozone standard.

Additionally, EPA has determined that Connecticut's two ozone nonattainment areas attained the 1997 8-hour ozone standard by their attainment date, based on quality assured air monitoring data. These determinations were published on August 31, 2010 (75 FR 53219) for the Greater Connecticut area, and on June 18, 2012 (77 FR 36163) for the New York City area. The improvements in air quality represented by these clean data determinations were brought about, in part, by the RACT program implemented by Connecticut.

Other specific requirements of Connecticut's RACT certification and

[1] The Connecticut submittal was made to address RACT for the 1997 8-hour ozone standard and does not address the 0.075 parts per million 2008 ozone standard.

[2] See 70 FR 71612, November 29, 2005.

the rationale for our action are explained in the NPR and will not be restated here.

EPA received one comment, from the Sierra Club, on our proposal to approve Connecticut's RACT certification. The Sierra Club argues that it is "impermissible for EPA to allow [CT DEEP] to rely in any part on the Clean Air Interstate Rule ('CAIR') to meet Reasonably Available Control Technology ('RACT') requirements for nitrogen oxides ('NO_X')."

In response to the Sierra Club's comment, we are clarifying the basis for our determination that Connecticut has adopted regulations that satisfactorily address the NO_X RACT requirement for a moderate nonattainment area under the 1997 8-hour ozone standard. As set forth in detail below, EPA did not propose to do, and is not now taking final action to do, what the Sierra Club argues would be impermissible. EPA is not allowing CT DEEP to "rely in any part on CAIR" to meet NO_X RACT requirements. However, we are supplying this clarification for two reasons. First, the basis for our determination (which has not changed from the proposal to this final action) differs slightly from the explanation that CT DEEP itself set forth in the narrative portion of its SIP submission. Second, we now recognize that the explanation of the basis for that determination that we provided in the proposal was potentially subject to a misreading, which we now dispel.

EPA agrees with the commenter that RACT is a mandatory requirement. EPA also acknowledges that in *NRDC* v. *EPA*, 571 F.3d 1245 (D.C. Cir. 2009), the court held that "the RACT requirement calls for reductions in emissions from sources in the area" and that, therefore, "participation in the NO_X SIP Call could constitute RACT only if participation entailed at least RACT-level reductions in emissions from sources within the nonattainment area." *Id.* at 1256. In other words, compliance with an unrestricted interstate emissions trading program, such as the NO_X SIP Call, could not be said to satisfy a RACT requirement absent an analysis demonstrating that any such program achieves "greater emissions reduction in a nonattainment area than would be achieved if RACT-level controls were installed in that area." *Id.* at 1258.

In this action, EPA is finalizing our approval of Connecticut's RACT SIP. This action is based on EPA's determination that CT DEEP has adopted regulations that satisfactorily address the applicable NO_X RACT requirement. Specifically, EPA's determination that the SIP satisfies the applicable RACT requirement for electric generating units (EGUs) and other major sources of NO_X emissions, is based on our determination that the two sections of the Regulations of Connecticut State Agencies—sections 22a–174–22 (Control of Nitrogen Oxides Emissions), and 22a–174–38 (Municipal Waste Combustors)—require all major sources of NO_X in the state, including EGUs, to have RACT level controls. These regulations are independent of Connecticut's current and past regulations that allow interstate trading, namely Connecticut's CAIR regulation (section 22a–174–22c), and two now-repealed interstate trading programs, sections 22a–174–22b (Post-2002 Nitrogen Oxides (NO_X) Budget Program) and 22a–174–22a (NO_X Budget Program).

EPA approved sections 22a–174–22 and 22a–174–38 into Connecticut's SIP in 1997 and 2001 respectively. See 62 FR 52016; 66 FR 63311. Moreover, EPA's "Phase 2" implementation rule for the 1997 8-hour ozone standard specifically provided that states could meet the RACT requirement "through a certification that previously required RACT controls represent RACT for 8-hour implementation purposes." 70 FR 71617. Connecticut's December 8, 2006 submittal did just this, and certified that previously required RACT controls represent RACT for 8-hour implementation purposes:

> Connecticut and other states previously designated non-attainment under the 1-hour ozone NAAQS, already have rules in place to reduce emissions of VOC and NO_X for attainment purposes. Recognizing that additional controls may only achieve small incremental emission reductions that are not cost effective, the Implementation Rule allows states to review and certify that RACT controls implemented under the 1-hour ozone NAAQS continue to represent RACT under the 8-hour NAAQS. Such a review and certification follows.[3]

Connecticut's analysis then proceeds to enumerate, over the course of five pages, the specific requirements applicable to various categories of sources. In particular, Connecticut's analysis explains that its six municipal waste combustors are regulated by Section 22a–174–38, and that "[a]ny facility in Connecticut that has the potential to emit at least fifty tons per year of NO_X" is regulated by Section 22a–174–22. *Id.* at 11.

It is important to clarify that EPA is not approving any reliance by CT DEEP on the CAIR emission trading programs. In addition, EPA's own determination that CT DEEP has adopted regulations that satisfactorily address the applicable NO_X RACT requirement is not based on the CAIR emission trading programs, the Connecticut state regulation (section 22a–174–22c) that requires participation by certain Connecticut sources in those programs, or compliance by sources in Connecticut with those programs. In short, the CAIR programs are irrelevant to EPA's approval of these CT SIP submissions. EPA acknowledges that the SIP submission from Connecticut could be read to suggest that its participation in CAIR satisfies NO_X RACT for EGUs. However, we do not interpret Connecticut's submission to rely on this theory, given both Connecticut's introductory statement that its RACT analysis is based on review and submission of previously-adopted RACT controls, and its discussions of those controls (e.g., section 22a–174–22). Moreover, EPA's proposal explained that "EPA has reviewed Connecticut's determination that it has adopted VOC and NO_X control regulations for stationary sources that constitute RACT, and determined that the set of regulations cited by the state constitute RACT for purposes of the 1997 8-hour ozone standard. Additionally, we are proposing to approve the three VOC RACT orders submitted by the state on July 20, 2007." 78 FR 4802. Our proposal then enumerated the specific Connecticut control requirements upon which EPA relied for our proposal to find that Connecticut has satisfied the RACT requirement.[4] Neither the CAIR trading programs, nor the Connecticut regulation requiring participation by certain Connecticut sources in those programs was identified in this list. Our proposal did *mention* Connecticut's own references to its CAIR regulation, but only as explanatory notes regarding additional state NO_X regulations. See *id.*

In general, EPA approval of a state SIP submission does not imply endorsement of every single statement contained in the narrative portion of that submission. However, in the interest of clarity, we specifically note here that EPA is *not*

[3] 8-Hour Ozone Reasonably Available Control Technology State Implementation Plan Analysis for the State of Connecticut (Final) (Nov. 3, 2006), Document #EPA–R01–OAR–2009–0449–0005, at 7.

[4] "Connecticut's submittal documents the state's VOC and NO_X control regulations that have been adopted to ensure that RACT level controls are required in the state. These requirements include the following Regulations of Connecticut State Agencies: section 22a–174–20, Control of Organic Compound Emissions; section 22a–174–22, Control of Nitrogen Oxide Emissions; section 22a–174–30, Dispensing of Gasoline/Stage I and Stage II Vapor Recovery; section 22a–174–32, RACT for Organic Compound Emissions; and 22a–174–38, Municipal Waste Combustors," as well as several single-source orders and updates to existing asphalt paving and solvent metal cleaning regulations. 78 FR 4802.

approving the portions of Connecticut's SIP submission that cite the presumption or determination in the Phase 2 ozone implementation rule that compliance with CAIR could, in certain circumstances, satisfy NO_X RACT for EGUs.

Rather, we are approving Connecticut's RACT analysis because we agree with Connecticut's determination that sections 22a–174–22 and 22a–174–38, which were developed under the 1-hour ozone NAAQS to control NO_X emissions from major sources, continue to represent RACT for major NO_X sources in Connecticut for purposes of the 1997 8-hour ozone standard. In particular, section 22a–174–22 is Connecticut's primary NO_X RACT regulation, and it contains requirements applicable to EGUs and other major sources of NO_X. A brief summary of this rule is provided below, and additional information can be found within our October 6, 1997 final rule approving the rule into the Connecticut SIP. See 62 FR 52016.

RCSA 22a–174–22, Control of Nitrogen Oxide Emissions

Connecticut's NO_X RACT regulation [5] contains a combination of NO_X emission limitations, performance standards, and compliance options, including provisions for sources to meet emission limitations through intra-state emissions trading (i.e., trading limited exclusively to trading among sources within Connecticut), known in Connecticut as "emissions reduction trading" and generally implemented through source-specific orders.

Subsection (d) of the rule lists compliance options available to sources. These options are compliance with emission limitations, fuel switching, a 40% emission reduction, source reconstruction, schedule modification, or intra-state emission reduction trading. Requirements for each method of compliance are detailed in subsections (f) through (j).

Subsection (e) establishes emission limits with specific limits for: Turbines; cyclone furnaces; fast-response double-furnace Naval boilers; fluidized-bed combustors; reciprocating engines; waste combustors; fuel burning equipment firing fuels other than gas, oil, or coal; glass melting furnaces; and other sources providing direct heat. Subsection (e) also contains an emission limit for "all other sources" not having a specifically defined emission limitation. The specific RACT limits for all major NO_X sources, including EGUs, is shown in Table 1 below. Connecticut's EGUs are required to comply with, at a minimum, the emission limit that corresponds to their particular fuel and unit type shown in Table 1, although for most EGUs Connecticut has mandated via permit condition stricter limits than those found within section 22a–174–22. Table 2 below summarizes the NO_X control equipment in place at Connecticut's largest EGUs, along with the emission rates for these units.

Subsection (j) ("Emissions reduction trading") establishes the requirements for sources complying with subsection (e) emission limitations through intra-state emissions trading. Under subsection (d)(4), CT DEEP must submit any permit or order implementing an intra-state emissions trade under subsection (j) to EPA for approval. *See also* CAA § 110(i). Therefore, any use of intra-state emissions trading under subsection (j) for compliance with subsection (e) limits would have to be presented to EPA as a new SIP revision, which would be reviewed and processed in a separate regulatory action. See, e.g., 77 FR 71140.

Subsection (k) covers requirements for emission testing and monitoring. Subsection (l) covers recordkeeping and reporting requirements concerning operating hours, fuel usage, NO_X emissions, equipment maintenance, continuous emissions monitoring (CEMS) records, and emissions testing information. Sources must retain these records for five years. Subsection (m) contains provisions requiring the submittal of compliance plans for sources subject to the provisions of section 22a–174–22.

Table 1 below summarizes the NO_X emission limits within section (e) of section 22a–174–22. The following abbreviations are used in the table: gm/bk hp-hr = grams per brake horsepower-hour; lb/mmBTU = pounds per million British Thermal Units; NA = not applicable; and ppmvd = parts per million volume, dry.

TABLE 1—NO_X EMISSION LIMITS FROM SIP-APPROVED CT NO_X RACT REGULATION

Equipment type	Gas	Residual oil	Other oil	Coal
Turbine, 100 mmBTU/hr or greater	55 ppmvd	NA	75 ppmvd	NA.
Turbine, less than 100 mmBTU/hr	0.90 lb/mmBTU	NA	0.90 lb/mmBTU	NA.
Cyclone furnace	0.43 lb/mmBTU	0.43 lb/mmBTU	0.43 lb/mmBTU	0.43 lb/mmBTU.
Fast response Naval boilers	0.20 lb/mmBTU	0.30 lb/mmBTU	0.30 lb/mmBTU	0.30 lb/mmBTU.
Fluidized bed combustor	NA	NA	NA	0.29 lb/mmBTU.
Reciprocating engines	2.5 gm/bk hp-hr	NA	8 gm/bk hp-hr	NA.
Other boilers	0.20 lb/mmBTU	0.25 lb/mmBTU	0.20 lb/mmBTU	0.38 lb/mmBTU.

Table 2 below provides the NO_X control equipment and related information for Connecticut's 10 largest emitting EGUs in 2009. This data is from EPA's Air Markets Program database. Within Table 2, the following abbreviations are used: LNB = Low NO_X burners; FGR = Flue gas recirculation; OFA = Over-fired air; SCR = Selective catalytic reduction; and SNCR = Selective non-catalytic reduction.

[5] The references to section 22a–174–22 in this discussion are to the version which is part of the federal SIP. That version was approved by EPA in 1997 and is available online at *http://www.epa.gov/region1/topics/air/sips/sips_ct.html http://www.epa.gov/region1/topics/air/sips/ct/CT_22a_174_22.pdf.* Connecticut has since revised this regulation, and thus references to various paragraphs and subsections here may differ slightly from the current state regulation.

TABLE 2—NO_X CONTROL EQUIPMENT AT CONNECTICUT'S TEN LARGEST EGUS.

Facility name	Unit ID	Avg. NO_X rate (lb/mmBTU)	NO_X Emissions (tons)	Unit type	Fuel (primary)	NO_X Controls
Bridgeport Harbor	BHB3	0.15	838.2	Tangentially fired	Coal	LNB with OFA
Algonquin Power	GT1	0.14	259.1	Combined cycle	Gas	Steam injection
AES Thames	Unit A	0.06	226.3	Circulating fluidized bed boiler.	Coal	Facility closed
AES Thames	Unit B	0.06	214.9	Circulating fluidized bed boiler.	Coal	Facility closed
New Haven Harbor	NHB1	0.13	115.4	Tangentially fired	Residual oil	LNB, OFA, FGR
Middletown	3	0.25	105.1	Cyclone boiler	Residual oil	Water injection, SNCR
Bridgeport Energy	BE2	0.02	74.6	Combined cycle	Gas	SCR
Bridgeport Energy	BE1	0.02	71.6	Combined cycle	Gas	SCR
Middletown	2	0.13	66.7	Dry bottom wall-fired boiler.	Residual oil	OFA
Milford Power	CT02	0.01	48.6	Combined cycle	Gas	Water injection, SCR

EPA defined RACT as being the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. See 44 FR 53762, September 17, 1979. The NO_X controls noted within Table 2 have all been demonstrated to be effective at reducing NO_X emissions from EGUs, and this is demonstrated by the low NO_X emission rates shown within the table. Based on EPA's experience interpreting and applying the RACT standard, we find reasonable Connecticut's determination that the requirements discussed above are consistent with RACT. Consequently, we agree with Connecticut's determination that its already-approved regulations discussed herein impose a RACT level of control on EGUs, and as described elsewhere in this notice, all major sources of NO_X. Since our approval of Connecticut's RACT SIP does not rely in any way on CAIR, the remainder of the Sierra Club's comments regarding CAIR are not relevant to this action and we are therefore not specifically addressing the remainder of those comments pertaining to the status of CAIR.

III. VOC RACT Orders

On July 20, 2007, Connecticut submitted VOC RACT orders for the Curtis Packaging Corporation in Newtown, Sumitomo Bakelite North America, Incorporated, located in Manchester, and Cyro Industries in Wallingford. Our January 23, 2013 NPR contains a summary of the RACT requirements established for each facility, and our analysis of these requirements. In summary, we have reviewed these single source VOC RACT orders and agree that they represent a RACT level of control for each facility. Therefore, we are approving these orders into the Connecticut SIP.

Other specific requirements of these three VOC RACT orders and the rationale for our action are explained in the NPR and will not be restated here. No public comments were received on this aspect of our NPR.

IV. Final Action

EPA is approving Connecticut's December 8, 2006 RACT certification for the 1997 8-hour ozone standard, and VOC RACT orders for Cyro Industries, Sumitomo Bakelite North America, and the Curtis Packaging Corporation, as revisions to the Connecticut SIP.

V. Statutory and Executive Order Reviews

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

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

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must

submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** A major rule cannot take effect until 60 days after it is published in the **Federal Register.** This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 26, 2013. 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, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: March 22, 2013.

H. Curtis Spalding,

Regional Administrator, EPA New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart H—Connecticut

■ 2. Section 52.370 is amended by adding paragraph (c)(101) to read as follows:

§ 52.370 Identification of plan

* * * * *

(c) * * *

(101) Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on July 20, 2007, consisting of orders establishing reasonably available control technology for volatile organic compound emissions for Sumitomo Bakelite North America, Cyro Industries, and Curtis Packaging.

(i) Incorporation by reference.

(A) State of Connecticut vs. Sumitomo Bakelite North America, Inc., Consent Order No. 8245, issued as a final order on October 11, 2006.

(B) State of Connecticut and Cyro Industries, Consent Order No. 8268, issued as a final order on February 28, 2007.

(C) State of Connecticut vs. Curtis Packaging Corporation, Consent Order No. 8270, issued as a final order on May 1, 2007.

■ 3. Section 52.375 is amended by revising paragraph (b) to read as follows:

§ 52.375 Certification of no sources.

* * * * *

(b) In its December 8, 2006 submittal to EPA pertaining to reasonably available control technology requirements for the 1997 8-hour ozone standard, the State of Connecticut certified to the satisfaction of EPA that no sources are located in the state that are covered by the following Control Technique Guidelines:

(1) Automobile Coatings;

(2) Large Petroleum Dry Cleaners;

(3) Large Appliance Coating;

(4) Natural Gas and Gas Processing Plants;

(5) Flat Wood Paneling Coatings; and

(6) Control of VOC Leaks from Petroleum Refineries.

■ 4. Section 52.377 is amended by adding paragraph (l) to read as follows:

§ 52.377 Control strategy: Ozone.

* * * * *

(l) Approval—Revisions to the Connecticut State Implementation Plan (SIP) submitted on December 8, 2006. The SIP revision satisfies the requirement to implement reasonably available control technology (RACT) for sources of volatile organic compounds (VOC) and oxides of nitrogen (NO_X) for purposes of the 1997 8-hour ozone standard. Specifically, the following sections of the Regulations of Connecticut State Agencies are approved for this purpose: For VOC RACT, 22a–174–20, Control of Organic Compound Emissions, 22a–174–30, Dispensing of Gasoline/Stage I and Stage II Vapor Recovery, and 22a–174–32, RACT for Organic Compounds; for NO_X RACT, 22a–174–22, Control of Nitrogen Oxide Emissions, and 22a–174–38, Municipal Waste Combustors.

[FR Doc. 2013–15299 Filed 6–26–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 122

[EPA–HQ–OW–2003–0063; FRL–9829–2]

RIN 2040–AF47

National Pollutant Discharge Elimination System Regulation Revision: Removal of the Pesticide Discharge Permitting Exemption in Response to Sixth Circuit Court of Appeals Decision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is amending its regulations to remove language added by the EPA's 2006 NPDES Pesticides Rule which exempted the application of pesticides from National Pollutant Discharge Elimination System (NPDES) permit requirements in two circumstances: When the application of the pesticide is made directly to waters of the United States to control pests that are present in the water, and when the application of the pesticide is made to control pests that are over, including near, waters of the United States. This rulemaking is in response to the 2009 Sixth Circuit Court of Appeals ruling that vacated the EPA's 2006 NPDES Pesticides Rule.

DATES: This final rule is effective on June 27, 2013.

ADDRESSES: The record for this rulemaking is available for inspection and copying at the Water Docket, located at the EPA Docket Center (EPA/DC), EPA West 1301 Constitution Ave. NW., Washington, DC 20004. The record is also available via the EPA Dockets at *http://www.regulations.gov* under docket number EPA–HQ–OW–2003–0063. The rule and key supporting documents are also available electronically on the Internet at *http://www.epa.gov/npdes/pesticides.*

FOR FURTHER INFORMATION CONTACT: For further information contact Prasad Chumble, Water Permits Division, Office of Wastewater Management (4203M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460, telephone number: (202) 564–0021, email address: chumble.prasad@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action may be of interest to you if you apply pesticides to or over, including near, waters of the United States. Potentially affected entities, as categorized in the North American Industry Classification System (NAICS), may include, but are not limited to:

TABLE 1—ENTITIES POTENTIALLY REGULATED BY THIS RULE

Category	NAICS	Examples of potentially affected entities
Agriculture parties—General agricultural interests, farmers/producers, forestry, and irrigation.	111 Crop Production	Producers of crops mainly for food and fiber including farms, orchards, groves, greenhouses, and nurseries that have irrigation ditches requiring pest control.
	113110 Timber Tract Operations	The operation of timber tracts for the purpose of selling standing timber.
	113210 Forest Nurseries Gathering of Forest Products.	Growing trees for reforestation and/or gathering forest products, such as gums, barks, balsam needles, rhizomes, fibers, Spanish moss, ginseng, and truffles.
	221310 Water Supply for Irrigation	Operating irrigation systems.
Pesticide parties (includes pesticide manufacturers, other pesticide users/interests, and consultants).	325320 Pesticide and Other Agricultural Chemical Manufacturing.	Formulation and preparation of agricultural pest control chemicals.
Public health parties (includes mosquito or other vector control districts and commercial applicators that service these).	923120 Administration of Public Health Programs.	Government establishments primarily engaged in the planning, administration, and coordination of public health programs and services, including environmental health activities.
Resource management parties (includes State departments of fish and wildlife, State departments of pesticide regulation, State environmental agencies, and universities).	924110 Administration of Air and Water Resource and Solid Waste Management Programs.	Government establishments primarily engaged in the administration, regulation, and enforcement of air and water resource programs; the administration and regulation of water and air pollution control and prevention programs; the administration and regulation of flood control programs; the administration and regulation of drainage development and water resource consumption programs; and coordination of these activities at intergovernmental levels.
	924120 Administration of Conservation Programs.	Government establishments primarily engaged in the administration, regulation, supervision and control of land use, including recreational areas; conservation and preservation of natural resources; erosion control; geological survey program administration; weather forecasting program administration; and the administration and protection of publicly and privately owned forest lands. Government establishments responsible for planning, management, regulation and conservation of game, fish, and wildlife populations, including wildlife management areas and field stations; and other administrative matters relating to the protection of fish, game, and wildlife are included in this industry.
Utility parties (includes utilities)	221 Utilities	Provide electric power, natural gas, steam supply, water supply, and sewage removal through a permanent infrastructure of lines, mains, and pipes.

II. Background and Rationale for Action

On November 27, 2006, the EPA issued a final rule, Application of Pesticides to Waters of the United States in Compliance with FIFRA (71 FR 68483) ("2006 NPDES Pesticides Rule"), which promulgated 40 CFR 122.3(h). Section 122.3(h) specified two circumstances in which an NPDES permit would not be required for the application of pesticides to waters of the United States. They were: (1) the application of pesticides directly to waters of the United States to control pests; and (2) the application of pesticides to control pests that are present over waters of the United States, including near such waters, where a portion of the pesticides will unavoidably be deposited to waters of the United States to target the pests effectively; provided that the application is consistent with relevant Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) requirements.

On January 19, 2007, petitions for review of the 2006 NPDES Pesticides Rule were filed in eleven federal circuit courts of appeals by industry and environmental groups. Petitions were consolidated and assigned to the Sixth Circuit Court of Appeals. On January 7, 2009, the Sixth Circuit Court concluded the EPA's 2006 NPDES Pesticides Rule was inconsistent with the Clean Water Act. *Nat' Cotton Council of Am.* v. *EPA*, 553 F.3d 927 (6th Cir. 2009). On January 17, 2012 the court issued a mandate vacating the Rule.

Today's action removes 40 CFR 122.3(h) from the Code of Federal Regulations (CFR), in accordance with the vacatur of that section by the Court. The EPA is not providing an opportunity for comment on this final rule. Under the Administrative Procedure Act of 1946 (APA) an agency may issue a final rulemaking without providing notice and an opportunity for public comment in certain specific instances. This may occur, in particular, when an agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that public notice and comment procedures are impracticable, unnecessary, or contrary to the public interest. See 5 U.S.C. 553(b)(3)(B).

The EPA finds that notice and an opportunity for public comment are unnecessary for today's action. This action is ministerial because the Sixth Circuit Court vacated the 2006 NPDES Pesticides Rule effective January 17, 2012. The EPA has no discretion in taking this action. Based on the Court's decision, the 2006 NPDES Pesticides Rule is no longer effective. Therefore, the EPA is removing the Rule from the CFR to conform to the Court's decision. Providing an opportunity for notice and comment is therefore unnecessary. The EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

III. Implementation

The EPA has determined that good cause exists to waive the requirement under 5 U.S.C. 553(d) that a substantive rule's effective date be not less than 30 days after the publication of the rule. The APA authorizes exceptions to 5 U.S.C. 553(d) for substantive rules that grant or recognize an exemption or relieve a restriction; interpretative rules and statements of policy; and as otherwise provided by the agency for good cause found and published with the rule. The 2006 NPDES Pesticides Rule was vacated by the Sixth Circuit Court effective January 17, 2012. This rule only amends the CFR to reflect the Court's order. It does not impose any requirements or alter the status quo in any way, and regulated parties will not need to adjust their behavior in response to this rule. The EPA finds that this constitutes good cause to waive the requirement that a rule be published not less than 30 days before its effective date pursuant to 5 U.S.C. 553(d)(3). Therefore, this final rule is effective on June 27, 2013.

IV. Statutory and Executive Order Reviews

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

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

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b). The Agency believes this action does not impose a burden because it only removes the 2006 NPDES Pesticides Rule from the CFR.

C. Regulatory Flexibility Act

Today's action is not subject to the Regulatory Flexibility Act (RFA), which generally requires an agency to prepare a regulatory flexibility analysis for any rule that will have a significant economic impact on a substantial number of small entities. The RFA applies only to rules subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA) or any other statute. This rule is not subject to notice and comment requirements under the APA or any other statute because although the rule is subject to the APA, it does not impose any requirements or alter the status quo in any way, and regulated parties will not need to adjust their behavior in response to this rule. Therefore, the Agency has invoked the "good cause" exemption to the notice and comment requirement under 5 USC 553(b).

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector. The action imposes no enforceable duty on any State, local or tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 or 205 of the UMRA. This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments.

E. Executive Order 13132 (Federalism)

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because the action removes the 2006 NPDES Pesticides Rule from the CFR, which has already been vacated by the Sixth Circuit Court. This rule imposes no regulatory requirements on any State, tribal, or local government. Thus, Executive Order 13132 does not apply to this rule.

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

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires the EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). It imposes no

regulatory requirements or costs on any tribal government. It does not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. Thus, Executive Order 13175 does not apply to this rule.

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

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in Executive Order 12866, and because the Agency does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

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

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

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs the EPA to provide Congress, through the Office of Management and Budget, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, the EPA did not consider the use of any voluntary consensus standards.

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

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

The EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This action merely removes the 2006 NPDES Pesticides Rule from the CFR which was vacated by the U.S. Court of Appeals.

K. Congressional Review Act

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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, the EPA has made such a good cause finding, including the reasons therefore, and established an effective date of June 27, 2013. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

V. Statutory Authority

This rule is issued under the authority of sections 101, 301, 304, 306, 308, 402, and 501 of the CWA. 33 U.S.C. 1251, 1311, 1314, 1316, 1317, 1318, 1342, and 1361.

List of Subjects in 40 CFR Part 122

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous substances, Reporting and recordkeeping requirements, Water pollution control.

Dated: June 21, 2013.

Bob Perciasepe,

Acting Administrator.

For the reasons set out in the preamble, 40 CFR part 122 is amended as follows:

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

■ 1. The authority citation for part 122 continues to read as follows:

Authority: The Clean Water Act, 33 U.S.C. 1251 et seq.

§ 122.3 [Amended]

■ 2. Section 122.3 is amended by removing and reserving paragraph (h).

[FR Doc. 2013–15445 Filed 6–26–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 483

[CMS–3140–F]

RIN 0938–AP32

Medicare and Medicaid Programs; Requirements for Long Term Care Facilities; Hospice Services

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

ACTION: Final rule.

SUMMARY: This final rule will revise the requirements that an institution will have to meet in order to qualify to participate as a skilled nursing facility (SNF) in the Medicare program, or as a nursing facility (NF) in the Medicaid program. These requirements will ensure that long-term care (LTC) facilities (that is, SNFs and NFs) that choose to arrange for the provision of hospice care through an agreement with one or more Medicare-certified hospice providers will have in place a written agreement with the hospice that specifies the roles and responsibilities of each entity. This final rule reflects the Centers for Medicare and Medicaid Services' (CMS') commitment to the principles of the President's Executive Order 13563, released on January 18, 2011, titled "Improving Regulation and Regulatory Review." It will improve quality and consistency of care between hospices and LTC facilities in the provision of hospice care to LTC residents.

DATES: These regulations are effective on August 26, 2013.

FOR FURTHER INFORMATION CONTACT: Lisa Parker, (410) 786–4665.

SUPPLEMENTARY INFORMATION:

I. Background

A. Overview

Sections 1819(b)(4)(A)(i) and 1919(b)(4)(A)(i) of the Social Security Act (the Act) state that, to the extent needed to fulfill all plans of care described in sections 1819(b)(2) and 1919(b)(2) of the Act, a skilled nursing facility (SNF) or nursing facility (NF) must provide, or arrange for the provision of, nursing and related services and specialized rehabilitative services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident. The Omnibus Budget Reconciliation Act (OBRA) of 1986 permitted States to add a hospice benefit to their State Medicaid plans, and specified that such care could be provided to an individual while such individual was a resident of a SNF or intermediate care facility (Pub. L. 99–272 (1986), section 9505(a)(2)). Additionally, eligible residents of long-term care (LTC) facilities may elect to receive services under the Medicare hospice benefit.

Medicare does not have a separate payment rate for routine hospice services provided in a nursing home. Because hospice services are typically provided to patients in their homes, the routine home care hospice rate does not include any payment for room or board. For routine home care services provided to patients in LTC facilities, hospices receive the Medicare routine home care rate, which is a fixed amount per day for the services provided by the hospice, regardless of the volume or intensity of the services provided. Accordingly, when the hospice patient resides in an LTC facility, the patient generally remains responsible for payment of the LTC facility's room and board charges. If, however, a patient receiving Medicare hospice benefits in an LTC facility is also eligible for Medicaid, Medicaid will pay the hospice at least 95 percent of the State's daily LTC facility rate, and the hospice is then responsible for paying the LTC facility for the beneficiary's room and board. The specific services included in the daily rate payment are determined by the State's Medicaid program and may vary from State to State. In addition to the room and board payment, a hospice may contract with the nursing home for the nursing home to provide non-core hospice services (that is, those services which the hospice is not required by law to provide itself) to its hospice patients.

LTC facilities and hospices are required to provide many of the same services to residents who have elected to receive the hospice benefit. The LTC facility regulations clearly specify what services the facility is required to provide to residents. Those services include nursing services (including aide services), dietary services, physician services, dental services, pharmacy services, specialized rehabilitative services if appropriate, laboratory services, and social services. Similarly, if a resident chooses to elect the hospice benefit, hospice providers are required to provide many of the same services as the LTC facility. As required at 42 CFR 418.100(c), a hospice must provide certain specified care and services and must do so in a manner that is consistent with accepted standards of practice. Those services include nursing services (including aide services), medical social services, physician services, counseling services (spiritual, dietary, and bereavement), volunteer services, therapy services as appropriate, short-term inpatient care, and medical supplies.

Due to so many of the same services being provided by both LTC facilities and hospice providers, there is a clear potential for residents to receive duplicative and/or conflicting services. The Department of Health and Human Services' Office of Inspector General (OIG) has recently raised a number of concerns about Medicare hospice care for nursing facility residents. OIG found that 31 percent of Medicare hospice beneficiaries resided in nursing facilities in 2006 and that 82 percent of hospice claims for these beneficiaries did not meet Medicare coverage requirements. (OIG, Medicare Hospice Care: Services Provided to Beneficiaries Residing in Nursing Facilities, OEI–02–06–00223, September 2009). Additionally, OIG reported that, unlike private homes, nursing facilities are staffed with professional caregivers and are often paid by third-party payers, such as Medicaid. These facilities are required to provide personal care services, which are similar to hospice aide services that are paid for under the hospice benefit. (OIG, Medicare Hospices that Focus on Nursing Facility Residents, OEI–02–10–00070, July 2011). To address this issue, we are establishing a requirement that will ensure LTC facilities that choose to arrange for the provision of hospice care through an agreement with one or more Medicare-certified hospice providers will have in place a written agreement with the hospice that will specify the roles and responsibilities of each entity. These clarifications will increase coordination of care for patients as well as help foster a stronger channel of communication between the two providers assisting patients and their families. We believe that a clear division of responsibilities and increased communication required by this rule will help eliminate duplication of and/or missing services.

This final rule sets forth requirements consistent with requirements in the June 5, 2008 final rule (73 FR 32088) titled "Medicare and Medicaid Program: Hospice Conditions of Participation." The hospice care final rule set forth new requirements that a Medicare-certified hospice provider must meet when it provides services, including the provision of hospice care to residents of an LTC facility who elect the hospice benefit. In regulations at 42 CFR 418.112(c), we specify what must be included in a written agreement between a Medicare-certified hospice provider and an LTC facility. In this final rule, we have made the requirements for LTC facilities consistent with the June 2008 final rule.

This final rule also supports current LTC requirements that protect a resident's right to a dignified existence, self-determination, and communication with, and access to, persons and services inside and outside the facility.

B. Relevance to Existing Hospice Requirements

Our intent in finalizing these requirements for LTC facilities is to ensure they are in accord with our existing requirements at § 418.112 for hospices that provide services to residents of LTC facilities. Our requirements for LTC facilities to have agreements with hospices and to collaborate and communicate with hospices to provide care for LTC facility residents largely parallels the language and intent of the hospice requirements. There are, however, instances where employing the same language will not reflect the distinct roles of each entity or where we believe it is important to provide clarity and detail without disturbing the substance or the proper interpretation of the requirements. In some instances, we are finalizing different requirements because we believe they are in the best interests of the residents of LTC facilities. For instance, we are requiring at § 483.75(t)(2)(ii)(E)(3) that the LTC facility notify the hospice about a need to transfer the resident from the facility for any condition. As a slight variation, the hospice is currently required at

§ 418.112(c)(2)(iii) to provide in an agreement with a SNF/NF or ICF/IID that the SNF/NF or ICF/IID will notify the hospice of a need to transfer a patient from the SNF/NF or ICF/IID, and the hospice makes arrangements for, and remains responsible for necessary continuous care or inpatient care related to the terminal illness and related conditions. While these provisions are similar, the hospice regulations also highlight the hospice's continued responsibility for care related to the terminal illness. We believe that these provisions, which are tailored to the unique needs and circumstances of each provider type, will promote higher quality of care and safety for the resident.

The rationale for both of these rules is to require a written agreement between the hospice and the LTC facility, which will help ensure safe and quality care if provided to the residents. (See § 418.112 (c)(1) through (9) for hospice and § 483.75(t)(2)(ii) (A) through (K) finalized in this rule for LTC facilities.) While the rules have slight differences in language, substantively, the requirements are the same. We believe it is appropriate for the remainder of the rule, including the coordination of care requirements at § 483.75(t)(3)(i) through (v) for LTC facilities and § 418.112(e) for hospice, to reflect the difference in the roles between these two providers in delivering resident care. Therefore, we are finalizing requirements for communication and collaboration specific to the LTC facility that do not entirely mirror the language in the hospice requirements. Rather, the final rule for LTC facilities will complement the hospice requirements, and together, these rules will allow for better coordination of care and quality of care for LTC facility residents who elect to receive the hospice benefit.

This final rule reflects the Centers for Medicare and Medicaid Services' (CMS') commitment to the principles of the President's Executive Order 13563, released on January 18, 2011, titled "Improving Regulation and Regulatory Review." It will improve quality and consistency of care between hospices and LTC facilities in the provision of hospice care to LTC residents.

II. Provisions of the Proposed Rule and Response to Comments

We published a proposed rule in the **Federal Register** on October 22, 2010 (75 FR 65282). In that rule, we proposed to revise the requirements that an institution would have to meet in order to qualify to participate as a skilled nursing facility (SNF) in the Medicare program, or as a nursing facility (NF) in the Medicaid program.

We provided a 60-day public comment period, during which we received approximately 30 timely comments from individuals, advocacy organizations, and industry associations. Summaries of the proposed provisions, as well as the public comments and our responses, are set forth below. We originally proposed the standard regarding LTC facility/Hospice cooperation at § 483.75(r); however, during the process of finalizing this rule, CMS published a separate interim final rule, titled "Requirements for Long-Term Care (LTC) Facilities; Notice of Facility Closure" (76 FR 9503). The interim final rule added separate standards at §§ 483.75(r) and (s). Since the designations (r) and (s) are now in use, we are finalizing this standard at § 483.75(t). However, in this discussion, we will continue to refer to the proposed regulations text at § 483.75(r).

Comments Regarding Possible Barrier Creation

Notwithstanding our analysis that this rule and 2008 final hospice rule are complimentary and substantively similar, and in view of the slight differences between these rules, we requested public comment on whether the differences found in the proposed rule would create a barrier to forming agreements between LTC facilities and hospices, or interfere in coordination of residents' care between LTC facilities and hospices. We received a few comments regarding the differences between the two rules. Those comments and our response are set forth below.

Comment: Several commenters had concerns that the proposed rule, as written, has the potential of creating a barrier to agreements between LTC facilities and hospice providers. Commenters noted that this requirement imposes responsibility and liability on the LTC facilities to make decisions regarding whether or not a hospice provider is meeting professional standards and principles. Those duties and responsibilities are the province of the State licensing agency and CMS, and should not be placed on LTC facilities.

Response: The requirements in the final rule will ensure that LTC facilities that chose to arrange for the provision of hospice care through an agreement with one or more Medicare-certified hospice providers will have in place a written agreement with the hospice that specified the roles and responsibilities of each entity. If an LTC facility is establishing an agreement for the provision of services, the LTC facility should be monitoring the delivery of the services to a resident in order to assure that professional standards and principles are followed in the provision of the services within their facility. The LTC facility is responsible for assuring that services and care provided meet the assessed needs of each resident.

General Comments

Comment: The majority of commenters support the rule. Several commenters stated that having a mandated set of written expectations between LTC facilities and hospice providers would help clarify specific responsibilities of each entity. The commenters also stated that clarifications will increase coordination of care for patients as well as help foster a stronger channel of communication between the two providers assisting patients and their families. With a clear division of responsibilities and increased communication, this rule will help eliminate duplication of and/or missing services.

Response: We appreciate the support from the commenters on this proposal. We believe that having a consistent set of regulatory requirements that establish the expectations for both hospices (§ 418.112(e)) and LTC facilities (§ 483.75(t)) will help both entities clarify their specific patient/resident-care roles and responsibilities. The regulatory clarity will also help to eliminate duplication of and/or missing services.

Comment: One commenter suggested extending the deadline for the implementation of the rule to allow hospices and LTC facilities more time to develop agreements to be reached, reviewed, and signed along with training of LTC and hospice staff to be conducted.

Response: The rule will be effective on August 26, 2013. We believe this is an adequate timeframe since hospices already have to meet this requirement.

Comment: Several commenters suggested the final rule should include the creation of a liaison position. Commenters suggested the on-staff, clinically trained professional should serve as a point of contact and mediator collaborating directly with hospice and LTC facility staff members to coordinate effective patient care. Some commenters suggested that the point of contact person be on the LTC facility's staff, while other commenters suggested the position be filled by a member of the hospice staff. Commenters suggested that the liaison position should help to eliminate division of services and ensure that all appropriate medical care

safety precautions were being observed and provided.

Response: We believe the requirement that we are finalizing, which designates a member of the LTC facility's interdisciplinary team as a point of contact who will directly collaborate with hospice to coordinate effective patient care sufficiently, addresses the commenter's suggestion. Likewise, current hospice regulations (§ 418.112(e)(1)) require the designation of a person who is responsible for coordinating the care of the resident provided by the LTC facility and hospice staff.

Comment: One commenter stated that SNFs and NFs should provide hospice services to residents in their facilities and there should be reimbursement for the care.

Response: The current regulations do not prohibit an LTC facility from providing palliative care to its residents with its own staff. However, we do not have the statutory authority to modify LTC facility payments to include the full range of hospice services. In addition, in order to receive Medicare payment for hospice services, the hospice provider must meet Medicare hospice requirements, including the statutory requirement that a hospice be primarily engaged in providing the hospice care and services set out at section 1861(dd)(1) of the Act. Therefore, under the above statutory requirements an LTC facility could not receive Medicare hospice benefit payments because it is not primarily engaged in providing hospice services and does not meet the definition of a hospice. If a provider does not meet the definition of a "hospice" it cannot be Medicare-certified and therefore, cannot receive payment under the Medicare hospice benefit.

Comment: One commenter mentioned that they disagreed with the increased responsibility that the proposed rule placed on LTC facilities. Another commenter suggested that the focus of the proposed rule was incorrect. Rather than the expense and additional regulation that the proposed rule would generate, the commenter would like each State to provide the guidance for facilities desiring to provide hospice services.

Response: We do not believe that the written agreement and resident care requirements increase an LTC facility's responsibilities. An LTC facility's responsibilities for the care of its residents already exist in regulation at § 483.25, which states that "each resident must receive and the facility must provide the necessary care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being, in accordance with the comprehensive assessment and plan of care." The requirements of this final rule simply clarify the roles and responsibilities of LTC facilities when they choose to contract with hospices to serve their residents. For more than a decade, States have regulated the overlapping relationship between LTC facilities and hospice providers. As we explained in the proposed rule, there is clear and consistent evidence of a lack of care coordination and persistent ambiguities in care responsibilities when LTC residents are also hospice patients. Both a 2002 Department of Health and Human Services' (DHHS) Advisory Committee Report (*http://regreform.hhs.gov/finalreport.htm*) and a 2003 Hastings Center Report (True Ryndes, Linda Emanuel, The Hastings Center Report, Hastings-on-Hudson: March/April 2003, page S45) addressed the need for more care coordination. We believe it is in the best interest of the patients to regulate this overlapping relationship in order to improve the safety and quality of care provided to LTC residents who receive hospice services. Information gathered from surveys in both LTC facilities and hospice providers has informed our policy making for this rule. Furthermore, as this regulation is a companion rule to the current hospice CoPs, the industry has voiced support for this rule because it clarifies the responsibilities of both providers.

Comment: One commenter questioned how this rule affects hospice provision in other types of facilities in which an individual may reside (for example, Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID), formerly referred to as ICFs/MR). The commenter asked if the exclusion of other facilities, for example ICFs/IID, implies that a State could not provide the hospice benefit, or does it imply that a State has the option to provide hospice?

Response: This regulation specifically clarifies the responsibilities of LTC facilities and hospice providers that choose to have in place a written agreement for hospice services. Therefore, the requirements in this rule will only apply to LTC facilities. However, we believe the commenters concerns regarding hospice services in ICFs/IID are addressed in the current hospice regulations. Section 418.112(c) "Written agreement," sets forth the requirements for a written agreement between hospice and ICFs/IID. Since this regulation only affects LTC facilities we did not intend to imply anything regarding the State's ability to provide hospice services.

Notice of Availability of Hospice Services

We proposed a new standard at § 483.75(r), titled "Hospice services." At § 483.75(r)(1), we proposed that LTC facilities could either arrange for the provision of hospice services through an agreement with one or more Medicare-certified hospice providers or not arrange for such services and assist a resident in transferring to a facility that would arrange for the provision of these services when the resident requested such a transfer.

Comment: Some commenters believed LTC facilities should be required to provide notice to residents upon admission as to whether hospice care will be available at the facility along with the names of the Medicare-certified hospice providers with which the facility has agreements. Additionally, commenters suggested that LTC facilities should also be required to give notice to their residents should substantial changes occur regarding their agreements with Medicare-certified hospice programs. If the facility has no agreement for the provision of hospice care, commenters suggested that the admission notice should explain to the resident that hospice care is not available at the facility and include information regarding the facility's responsibility to assist with transfer should the resident become terminally ill and wish to elect the hospice benefit.

Response: We agree with the commenters that notifying residents of services that an LTC facility provides is important. However, we believe that the current requirements at § 483.10(b)(6) sufficiently address this issue. Section 483.10(b)(6) currently requires an LTC facility to inform each resident before, or at the time of admission, and periodically during the resident's stay, of all services available in the facility. From past experience with LTC facilities, we would assume that information regarding available hospice services would be discussed at the time in which the resident wishes to utilize the hospice benefit.

Additionally, while it is uncommon for residents to enter an LTC facility and have need of hospice services right away, it can sometimes occur. A resident transferring into an LTC facility with the intention of using his or her hospice benefit right away is more than likely either being discharged from a hospital, or already receiving hospice care at home and in need of care in an LTC facility because the caregiver can no longer meet the individual's

custodial care needs. In the event that the resident is being discharged from a hospital and entering an LTC facility opting to use their hospice benefit, the hospital would be responsible for developing an appropriate discharge care plan to an LTC facility that provides hospice services. If the resident is already receiving hospice services at home and chooses to move to an LTC facility, the hospice, through its medical social services, would assist the individual and family in selecting an appropriate LTC facility with a hospice agreement.

Timeliness of Service

At § 483.75(r)(2)(i) and (ii), we proposed specific requirements for LTC facilities choosing to have hospice care provided by a Medicare-certified hospice in their facility. The LTC facility would be required to ensure that the hospice services met professional standards and principles that would apply to individuals providing services in the facility, and the timeliness of the services. We also proposed requiring that, before any hospice care was provided to a facility resident, a written agreement would have to be signed by both an individual authorized by the hospice administration and an individual authorized by the LTC facility administration.

Comment: Seven commenters recommended that we clarify the meaning of "timeliness of services." Commenters also suggested that the interdisciplinary team be responsible for ensuring that the hospice provider is meeting the requirements. Another commenter suggested that the proposed requirement was duplicative of existing conditions of participation (CoPs) for LTC facilities and should be deleted from the final rule.

Response: The term, "timeliness of services" means that the LTC facility will be required to ensure that the Medicare-certified hospice will provide services to the resident in a way that meets their needs in a timely manner, for example, by increasing the resident's pain medication to ensure an optimal comfort level. We anticipate that LTC facilities will address timeliness of services in their agreements with hospices, based on resident needs. Although the existing LTC facility standard at § 483.75(h)(2)(ii) requires the facility to assure the timeliness of the current services that an LTC facility provides, this provision does not specifically apply to the content of written agreements for hospice services. Therefore, the requirement at § 483.75(t)(2)(i) is not duplicative. We are finalizing the language as proposed.

Services and Responsibilities of Hospice Plan of Care

We proposed under § 483.75(r)(2)(ii)(A) through § 483.75(r)(2)(ii)(D) that the written agreement include, at least, descriptions of the services the hospice will provide; the hospice's responsibilities for determining the appropriate hospice plan of care as specified in § 418.112(d); the services the LTC facility would continue to provide, based on each resident's care plan; and a communication process, including how the communication will be documented between the LTC facility and the hospice provider, to ensure that the needs of the resident were addressed and met 24 hours per day.

Comment: One commenter suggested that it would be helpful if there was a standardized communication form that hospice providers and LTC facilities could use to inform each other of new orders and changes, and if it indicated whether or not the primary physician and family member had been notified. Another commenter suggested that the facility document family engagement, consent, acknowledgement of an agreement with the patient's care plan, and any changes requested by the patient or their family in the patient's medical record. This would assist the family and the caregivers in identifying when there was a deviation from the plan of care.

Response: The written agreements between the hospice and the LTC facilities require communication between the two entities regarding the provision of care to the resident receiving hospice services. The LTC facility and hospice must collaborate on how they will communicate information regarding the resident's care and staff must be aware of the system and/or form for communication that will be used. The development of a system and/or form for communication is the responsibility of the hospice and LTC facility. Additionally, we believe that the commenter's suggestion regarding documentation in the resident's medical record is sufficiently addressed at § 483.75(l)(5). That requirement sets forth the information LTC facility clinical records must contain.

Comment: One commenter suggested that CMS update the instructions used by the State Agencies responsible for LTC facility survey and certification to ensure that sufficient emphasis is placed on surveyor review of a facility's clinical and administrative documentation. The commenter stated that this update would assure proper communication between all caregivers, regardless of their employer, and that issues of concern expressed in that documentation would be appropriately addressed by the LTC facility and other providers serving the facility's residents.

Response: We appreciate the commenter's suggestion regarding updates for surveyors. We expect shortly after the publication of the rule that updates to the State Operations Manual (SOM), which among other things provides interpretive guidelines for our surveyors, will be made regarding the new requirements. The instructions to surveyors for reviewing the care of a resident receiving hospice services are found in the interpretive guidelines for § 483.25, "Quality of Care." (TAG #F309 in Appendix PP of the SOM). This guidance provides instruction for the surveyor for the review and observation of the delivery of care, and for the review of the collaboration of the services between the hospice and the nursing home, including the coordination of care, the plan of care and the communication between the two entities.

Notifying Hospice of Change in Patient Status

Under § 483.75(r)(2)(ii), we proposed the inclusion of other duties and responsibilities that must be delineated by the LTC facility and the hospice in their written agreement. Under § 483.75(r)(2)(ii)(E), we proposed that the agreement contain a provision that the LTC facility notify the hospice provider immediately regarding a significant change in the resident's physical, mental, social, or emotional status, any clinical complication(s) that suggests a need to alter the plan of care, a condition unrelated to the terminal condition that might require transfer of the resident from the facility, or the resident's death.

Comment: A few commenters stated that hospice providers should be notified of any transfer of a resident receiving hospice services, regardless of whether it was related to the terminal illness or not. Therefore, commenters suggested amending the rule to read, "a need to transfer the resident from the facility for any condition."

Response: We agree with the commenters and have revised the regulation at § 483.75(t)(2)(ii)(E)(3) to remove the phrase "that is not related to the terminal condition" in order to clarify that the LTC facility immediately notifies the hospice regarding a need to transfer the resident from the facility for any condition.

Appropriate Level of Hospice Services

We proposed at § 483.75(r)(2)(ii)(F) that the hospice assume responsibility for determining the appropriate course of hospice care, including the determination to change the level of services provided.

Comment: One commenter stated that there was often disagreement between hospice staff and LTC facility staff due to hospice providers changing orders unrelated to the terminal diagnosis and/or palliative care. In addition, the commenter stated that hospice providers did not always provide rationale for changed orders. Another commenter expressed difficulty receiving information from local hospice providers in a timely manner; therefore, the commenter thought that this requirement would be difficult to fulfill.

Response: In accordance with the hospice regulations at § 418.112(c)(3), the hospice is responsible for establishing and updating the hospice plan of care, which encompasses all issues related to the terminal illness and all related conditions. We encourage LTC facilities and hospices to establish procedures for communicating patient care between both providers, more specifically to determine which provider is responsible for the care planning. For example, both hospice staff and LTC facility staff need to be aware of conditions related to the resident's terminal illness, which are handled under the hospice's care planning. Additionally, they need to be aware of conditions not related to the resident's terminal illness, which are handled under the LTC facility's care planning. Effective communication among both LTC facilities and hospices is, we believe, the most appropriate way for both providers to address this issue. The regulations for the written agreements for the hospice regulations at § 418.112(c)(1) and the LTC facility regulations at § 483.75(t)(2)(ii)(D) require both entities to establish, in writing, the manner in which they are to communicate with one another, and the method(s) that will be used to document such communications.

Continuation of Appropriate Resident's Needs

We proposed at § 483.75(r)(2)(ii)(G) that the LTC facility must continue to provide 24-hour room and board care, meet the resident's personal care and nursing needs in coordination with the hospice representative, and ensure that the level of care provided is appropriate based on the individual resident's needs.

Comment: A commenter stated that most hospice care, whether in the home or in an LTC facility, is provided at the routine level of care. If an LTC resident elects the Medicare hospice benefit and is receiving a routine level of care, Medicare does not pay for the resident's room and board. This billing caveat frequently creates a great deal of confusion for Medicare beneficiaries and their families. One commenter suggested that before the start of hospice care in the LTC facility and the consequent financial liability of the Medicare beneficiary for the cost of the room and board, the LTC facility should be required by regulation to provide notice to the beneficiary clearly explaining the liability for room and board and the estimated cost of that liability.

Response: At § 418.52(c)(7) of the hospice CoPs, hospice providers are required to ensure that residents receive information about the services covered under the hospice benefit. Likewise, § 483.10(b)(6) of the LTC facility regulations, require LTC facilities to inform each resident before, or at the time of admission, and periodically during the resident's stay, of services available in the facility and of charges for those services, including any charges for services not covered under Medicare or by the facility's per diem rate. Therefore, we believe that the current LTC and hospice regulations address the concerns of the comments.

Additional Hospice Responsibilities

At § 483.75(r)(2)(ii)(H), we proposed that the written agreement include a delineation of additional hospice responsibilities, which would include, but not be limited to, providing medical direction and management of the patient; nursing; counseling (including spiritual, dietary, and bereavement); social work; and the provision of medical supplies, durable medical equipment, and drugs necessary for the palliation of pain and symptoms associated with the terminal illness and related conditions. In addition, the written agreement would delineate all other hospice services that would be necessary for the care of the resident's terminal illness and related conditions.

Comment: Several commenters had concerns with the lack of clarity as to whether the LTC facility or the hospice provider would take the lead as the primary decision maker. Two commenters suggested that the attending physician maintain oversight of care of the resident and ensure that the care providers are in compliance with the documented plan in the patient's medical record. One commenter also stated that the hospice medical director should serve as a consultant and advisor to correct problems with the delivery of hospice services by LTC facility personnel. Another commenter suggested that only one physician should approve or disapprove all documented orders for patient care and that doctor must be credentialed in the LTC facility.

Response: There is no Federal regulation precluding the LTC staff from taking orders for care from the hospice physician regarding a resident's terminal illness and related condition. The written agreement should identify how the LTC staff communicate and receive orders from the hospice physician in relation to the terminal care.

The hospice regulations at § 418.112(c)(3) through § 418.112(c)(7) describe the role of the hospice in caring for an LTC resident. The hospice is responsible for all decisions related to the care provided for the terminal illness and related conditions. The LTC facility maintains responsibility for all other care decisions. In accordance with the requirements at § 418.56(c)(2), hospices are responsible for communicating with the patient/resident, family members, and attending physician at all points during the decision-making process to develop and update the content of the hospice plan of care. The hospice medical director, as the individual responsible for the medical component of the hospice's patient care program, is available to provide expertise in all necessary cases.

In addition, hospices are required to provide physician services (§ 418.64(a)) in conjunction with the patient's attending physician to manage the patient's hospice care and to provide additional non-hospice physician services when the patient's attending physician is not available. Therefore, we believe care coordination is explicit in the regulation.

Comment: One commenter suggested that the reference to "all other hospice services that are necessary . . ." in § 483.75(r)(2)(ii)(H) of the proposed rule should be elaborated to include 'home health aide/nursing assistant services and therapy.' The commenter noted that these services have posed the biggest challenges regarding determination of responsibility. For example when the hospice plan of care has included placement of a home health aide/nursing assistant in the facility, the entities have been confused regarding their obligations for personal care.

Response: We understand the commenter's concern with the abbreviated list not including all

possible services that the hospice would provide. We do not view those services not listed as less important, however, the list of services provided is an abbreviated list; we did not intend it to be all-inclusive. Hospice is responsible for providing all hospice services including the provision of hospice aide services, if these services are determined necessary by the Interdisciplinary Group (IDG) to supplement the nurse aide services provided by the facility. In entering into a written agreement with each other, each provider clearly delineates responsibilities for the quality and appropriateness of the care it provides in accordance with their respective laws and regulations. Both providers must comply with their applicable conditions or requirements for participation in the Medicare and/or Medicaid programs. The facility's services must be consistent with the plan of care developed in coordination with the hospice, and the facility must offer the same services to its residents who have elected the hospice benefit as it furnishes to its residents who have not elected the hospice benefit. Therefore, the hospice patient residing in a facility should not experience any lack of services or personal care because of his or her status as a hospice patient.

Administration of Prescribed Therapies

We proposed at § 483.75(r)(2)(ii)(I) that the agreement include a provision that the hospice may use LTC facility personnel, where permitted by State law and as specified by the LTC facility, to assist in the administration of prescribed therapies included in the hospice plan of care. We did not receive any comments on this proposal. Therefore, we are adopting it in this final rule without change.

Abuse

We proposed at § 483.75(r)(2)(ii)(J) that the written agreement contain a provision that the LTC facility report all alleged violations involving mistreatment, neglect, or verbal, mental, sexual, and physical abuse, including injuries of unknown source, and misappropriation of patient property by hospice personnel, to the hospice administrator immediately when the LTC facility becomes aware of the alleged violation.

Comment: One commenter believed that the proposed rule lacked direction in reporting alleged abuse and what the LTC facility's liability would be if the situation was not corrected and documented within the patient's records. The commenter suggested that the final rule require that a resolution process be documented in the patient's care plan, enabling those who are accountable for the care of the patient to be aware of their roles and responsibilities as well as increasing patient safety and improving quality of care.

Response: The written agreement specifies that the LTC facility must report alleged violations by hospice personnel to the hospice administrator immediately when the LTC facility becomes aware of the alleged violation. This is to assure that the hospice administrator is not only aware of the alleged violation, but also begins an investigation as required in the hospice CoPs at § 418.52(b)(4). We disagree with the commenter's suggestion regarding reporting alleged abuse in the resident's plan of care. The plan of care is a treatment plan that is developed according to the needs of the residents upon admission. Changes to the plan of care are made according to changes in the resident's condition and treatment needs. Moreover, the LTC facility must follow our regulations at § 483.13(c), "Staff Treatment of Residents," which require the facility to protect its residents from abuse; to identify, investigate, and report any alleged violations; and to take appropriate corrective action. Additionally, § 483.13(c) currently includes requirements for abuse documentation; therefore it would be duplicative to include an additional requirement in this final rule.

Bereavement Services

We proposed at § 483.75(r)(2)(ii)(K) that the agreement also include a delineation of the responsibilities of the hospice and the LTC facility to provide bereavement services to LTC facility staff.

Comment: Several commenters had concerns with this requirement in the proposed rule. One commenter suggested that the requirement should be removed, stating that the hospice agency should not be held responsible for providing bereavement counseling for LTC facility staff. It was suggested instead that LTC facilities should be held responsible for providing bereavement counseling for their own staff members. A few commenters requested additional information to be added regarding the duration and location of the services and whether one-on-one or group services would be acceptable. Additionally, commenters requested information clarifying which hospice would be responsible for providing the services in an LTC facility in the event that the facility contracts with more than one hospice for services.

Response: We understand the concerns expressed by the commenter regarding the removal of the bereavement requirement for hospices. However, this requirement is consistent with hospice requirements at § 418.112(c)(9) and changes to the hospice regulations are beyond the scope of this regulation. The agreement between the hospice and the LTC facility should detail how the services will be coordinated and provided by the hospice provider for the LTC staff. The bereavement services are based upon the relationship between the care provider and the hospice resident. The hospice and the LTC facility should collaborate and communicate in order to determine which LTC staff will benefit from the bereavement services. In the cases of several hospices offering services in a facility, the individual hospice and the facility, as noted above, should review and identify those LTC staff who will benefit from the bereavement services. This should be individualized based on the resident involved and the staff involvement in their care. The agreement will identify how this service will be implemented by the certified hospice. Since the proposed language reflects the requirement already in hospice CoPs, we are not making any changes to the current language. Rather, we believe it should stay consistent with the current hospice regulation at § 418.112(c)(9).

Interdisciplinary Team Member

At § 483.75(r)(3)(i) through (v), we proposed that the LTC facility that arranges for the provision of hospice care under a written agreement designate a member of the facility's interdisciplinary team to be responsible for working with hospice representatives to coordinate care provided by the LTC facility and hospice staff to the resident. This individual must be responsible for—(1) Collaborating with hospice representatives and coordinating LTC facility staff participation in the hospice care planning process for those residents receiving these services; (2) communicating with hospice representatives and other healthcare providers participating in the provision of care for the terminal illness, related conditions, and other conditions to ensure quality of care for the patient and family; (3) ensuring that the LTC facility communicates with the hospice medical director, the patient's attending physician, and other physicians participating in the provision of care to the patient as needed to coordinate the hospice care of the hospice patient with the medical care provided by other

physicians; (4) obtaining pertinent information from the hospice including the most recent hospice plan of care specific to each patient; hospice election form; physician certification and recertification of the terminal illness specific to each patient; names and contact information for hospice personnel involved in hospice care of each patient; instructions on how to access the hospice's 24-hour on-call system; hospice medication information specific to each patient; and hospice physician and attending physician (if any) orders specific to each patient); and (5) ensuring that the LTC facility staff provides orientation in the policies and procedures of the facility, including patient rights, appropriate forms, and record keeping requirements, to hospice staff furnishing care to LTC residents.

Comment: The majority of the commenters supported the requirement designating a member of the LTC facility's interdisciplinary team to be responsible for working with hospice representatives to facilitate the coordination of care. A few commenters however, were unsure if the designation of the facility's interdisciplinary team member required a specific person by name or designation of a specified staff position and/or discipline. One commenter suggested the final rule specify the LTC representative be someone with a clinical background, possibly a registered nurse (RN), as well as credentialed in the nursing facility.

Response: We agree with commenters that the LTC representative should be an employee of the facility with a clinical background. However, we do not want to limit LTC facilities' clinical personnel options solely to a professional registered nurse. The responsibilities of the interdisciplinary team member could be fulfilled by other clinicians participating in the care of the resident. We believe that by limiting the interdisciplinary team member to only a registered nurse, staffing issues may arise in addition to the possibility of increasing burden on the facility. In light of the complex clinical needs of a resident who is in the terminal stages of life, we believe it would be beneficial for the interdisciplinary team member to have the ability to assess the resident or have access to someone that has the ability to assess the resident. We are not requiring the person assessing the resident to be on the LTC facility staff: for example, it could be the hospice RN that is required to be available 24 hours. Therefore, we have revised the regulation at § 483.75(t)(3) to clarify that the LTC representative must have a clinical background, function within their State scope of practice act, and have the ability to assess the resident or have access to someone that has the skills and capabilities to assess the resident.

Comment: One commenter requested additional information regarding how a hospice program can best incorporate the LTC interdisciplinary member into the IDG. This commenter also wanted to know if this requirement would mandate that the interdisciplinary member directly participate in the hospice IDG meetings.

Response: In accordance with § 418.56(d), the hospice interdisciplinary group is required to update the hospice plan of care no less frequently than every 15 calendar days. The hospice interdisciplinary group must include specified core members; however, it is not limited to those core members. Rather, it is our expectation that all licensed professionals who participate in a patient's care will give input to the interdisciplinary group (§ 418.62(b)). Furthermore, the hospice is required to have a system of communication that ensures the ongoing sharing of information with non-hospice providers that are caring for a patient (§ 418.56(e)(5)). Finally, the hospice is specifically required to designate an individual from each interdisciplinary group that is responsible for a patient that resides in an LTC facility to act as a communicator and coordinator with the LTC representatives. In addition, the LTC facility is specifically required to designate an individual to coordinate with the hospice representatives. The regulation doesn't stipulate that the facility staff coordinator directly participate in the hospice care planning meeting, but it does not preclude them from attending. The LTC facility and hospice must work out the arrangements on how needed information for care planning and the delivery of care and services will be coordinated and provided based upon the needs of the resident.

Comment: One commenter has expressed concern with the requirement of the LTC facility interdisciplinary team member obtaining hospice medication information specific to each patient. An LTC pharmacy may experience difficulty with billing hospice medications to the correct payer without the appropriate notification by either the hospice provider or the LTC facility. This includes information as to whether the medication is "related to" the terminal illness, and the patient's insurance information. Because payment for medications not related to the terminal illness is the responsibility of the hospice patient or secondary payer, it is critical for the LTC pharmacy to have correct information. Generally, when an LTC facility resident elects hospice care, the LTC facility will typically have more information on the patient's secondary insurance coverage. Because the hospice provider may not know the pharmacy contact information for each resident, it is only logical that notification by the LTC facility to the pharmacy seems most appropriate. Having specific regulatory language that would make the LTC facility aware of this requirement is needed to avoid the potential for inappropriate billing. The commenter recommends that the LTC facility be responsible for obtaining medication information from the hospice, and that the notification be communicated among the hospice provider, the LTC facility, and the pharmacy within 1 business day of any admission, discharge or any change in the patient's medications or payer status.

Response: We agree with the commenter that it is the responsibility of the LTC facility to obtain medication information from the hospice provider, and we believe that this concern has already been addressed in the regulations (see § 483.75(t)(3)(iv)(F)). Further, § 483.75(t)(3)(iv) clarifies what information the designated member of the LTC facility's interdisciplinary team is responsible for obtaining from the hospice provider, including, medication information as set out at § 483.75(t)(3)(iv)(F)). Also, we expect that the LTC facility's designated member of the interdisciplinary team would appropriately communicate medication information and would identify the payer source for a resident before a change in their medical condition.

After carefully considering how resident information is communicated between the hospice and the LTC providers, we are making a change in the regulations text at § 483.75(t)(3)(iii) regarding who is responsible for communicating with the hospice about, among other things, the resident's medication orders. We are replacing the phrase, "other physicians" with "other practitioners" to encompass all other non-physician personnel such as an advanced practice registered nurse (APRN), licensed therapist, or pharmacist, in accordance with State law and scope of practice participating in the provision of care to the patient. We believe that this will address the commenter's concerns.

Comment: The majority of commenters agreed with the requirement that the LTC facility provide a written overview for

orientation on the policies and procedures of the facility to hospice staff furnishing care to LTC residents. One commenter suggested that the information be standardized and readily available in electronic format throughout all facilities in order for hospice staff to have access to quick and concise training. Another commenter suggested the overview address high priority regulatory and care related issues including facility layout with a tour of the facility, abuse and/or neglect prohibition and reporting policies and procedures, fire safety, infection control, falls prevention, and internal communications processes. Another commenter suggested that the facility-based orientation overview should be reviewed and signed by hospice staff before provision of care and services to residents electing the hospice benefit. A commenter also suggested that a list of the services the facility would anticipate from the hospice would also help in focusing the orientation.

Response: We appreciate the suggestion offered by the commenter regarding a standardized electronic format to facilitate training of hospice staff. This regulation does not preclude LTC facilities from using a standardized electronic format for their hospice orientation. Therefore, we believe that the proposed language at § 483.75(t)(3)(v) provides enough flexibility to LTC facilities that provide orientation to hospice providers on their policies and procedures. Although, we have not required all of the specific elements of an orientation, we expect that both the LTC facility and the hospice provider will ensure appropriate orientation, including an outline of services that the hospice will provide, before the provision of care.

Comment: One commenter stated that cross orientation would increase the quality of patient care, therefore, it was suggested that language from the hospice regulation at § 418.112 be added to the proposed rule to ensure that LTC staff furnishing care to hospice patients will also be oriented to the hospice procedures and policies.

Response: The regulations for the written agreements between the LTC facility and a hospice provide for orientation from the perspective of each entity. The SNF/NF orientation is meant to address the overall facility environment including policies, rights, record keeping and forms requirements. The hospice regulations at § 418.112(f) require hospices to assure that LTC facility staff are educated about the hospice philosophy, hospice policies and procedures, principles of death and dying, individual responses to death, hospice patient rights, and paperwork requirements. The orientation requirements, while separate regulations for both the LTC facility and Medicare Certified Hospice, should be a collaborative effort between the hospice and the LTC facility, to assure that the hospice employees provide services and care effectively in the LTC facility and that the hospice ensures that the LTC facility staff understands the basic philosophy and principles of hospice care. We believe that the requirement at § 483.75(t)(4)(v) is sufficient; therefore, we are finalizing this requirement as proposed.

Plan of Care

At § 483.75(r)(4), we proposed that each LTC facility providing hospice care under a written agreement ensure that each resident's written plan of care includes both the hospice plan of care and a description of the services furnished by the LTC facility to attain or maintain the resident's highest practicable physical, mental, and psychosocial well-being, as required at § 483.20(k).

Comment: Some commenters suggested that the regulation be changed to mirror the State Operations Manual (SOM) which states, "Highest practicable physical, mental, and psychosocial well-being is defined as the highest possible level of functioning and well-being, limited by the individual's recognized pathology and normal aging process."

Response: We do not agree that this regulation should include the language that mirrors the definition in the SOM. The interpretive guidelines in the SOM are subject to more frequent informal changes based on the regulatory text of a final rule. Therefore, we will not change the language in the regulation.

Comment: One commenter suggested deleting the requirement for LTC facilities to have the most recent hospice care plan in its possession. LTC facilities would not know when the hospice revised its care plan and would rely on hospice staff to provide the updated care plan. The LTC facility should not be held responsible for not having it in place. It should be the obligation and compliance requirement for hospice. Therefore, if hospice staff failed to provide the most current plan of care, the LTC facility would not be held responsible.

Response: At § 418.112(e)(3)(i) of the hospice regulations, hospices are required to provide the LTC facility with the most recent hospice plan of care for each patient. To ensure that all care providers are performing their duties in accordance with the most recent plan, it is appropriate to require the LTC facility to include the most recent plan of care in its files. If an LTC facility has reason to believe that the plan of care in its possession is out of date, it is incumbent upon the LTC facility to seek out the most recent information. The intent of this regulation is to ensure coordination of care between the hospice and LTC facility. We would expect, through this coordination that the LTC facility would always have the most current hospice plan of care.

Comment: While the majority of the commenters supported the written agreement, some commenters had concerns about the lack of clear regulatory direction regarding the responsibilities of the LTC facility and the hospice provider and requested clarification regarding the requirement for two plans of care. There was concern that medical errors that could result from a requirement for two plans of care for patients electing to use the hospice benefit along with the subsequent increase in possible transitions and transfer. Commenters believed that dividing medical care duties and services between two facilities will open the door for medical malpractice and further the chances for neglect of health care and safety and continue to exacerbate the lack of coordination between hospice and LTC providers.

Response: Having a written agreement that clearly delineates roles, responsibilities, expectations, and communication strategies should enhance, rather than impede, the coordination of care. This rule, when paired with the hospice regulatory requirements for written agreements, required services, and designated hospice representatives, will provide the overall structure for LTC-hospice relationships and written agreements. The hospice and LTC facility must collaborate to develop a coordinated plan of care for each patient that guides both providers. When a hospice patient is a resident of a facility, that patient's hospice plan of care must be established and maintained in consultation with representatives of the facility and the patient and/or family (to the extent possible). The hospice portion of the plan of care governs the actions of the hospice and describes the services that are needed to care for the patient. In addition, the coordinated plan of care must identify which provider (hospice or facility) is responsible for performing a specific service. The coordinated plan of care may be divided into two portions, one of which is maintained by the facility and the other by the hospice. The facility is required to update its

plan of care in accordance with any Federal, State or local laws and regulations governing the particular facility, just as hospices need to update their plans of care according to § 418.56(d) of the CoPs. The hospice plan of care must specifically identify or delineate the provider responsible for each function, service, and intervention included in the plan of care. The providers must have a procedure that clearly outlines the chain of communication between the hospice and facility in the event a crisis or emergency develops, a change of condition occurs, and/or changes to the hospice portion of the plan of care are indicated.

III. Provisions of This Final Rule

We are adopting the provisions of this final rule as proposed, with the following changes:

- We originally proposed the standard regarding LTC facility/Hospice cooperation at § 483.75(r); however, during the process of finalizing this rule, CMS published a separate interim final rule, Requirements for Long-Term Care (LTC) Facilities; Notice of Facility Closure (76 FR 9503). The interim final rule added standards § 483.75(r) and (s). Since the standards at § 483.75(r) and (s) are now in use, we are finalizing this standard at § 483.75(t).
- In consideration of public comments, we are making three substantive changes in this final rule. We have made a revision at 483.75(t)(3) to clarify that the LTC representative must have a clinical background, function within their State scope of practice act, and have the ability to assess the resident or have access to someone that has the skills and capabilities to assess the resident. We have also made a revision to the requirement at § 483.75(t)(3)(iii) removing the phrase "other physicians" and replacing it with "other practitioners." Lastly, we have made a revision to the requirement at § 483.75(t)(2)(ii)(E)(3) by removing the phrase "that is not related to the terminal condition."

Technical Correction

- We are finalizing the proposed technical correction which would fix an incorrect citation at § 483.10(n). In § 483.10(n), we are revising the reference "§ 483.20(d)(2)(ii)" to read "§ 483.20(k)(2)(ii)."
- We are also finalizing the proposed technical correction which would fix an incorrect citation at proposed § 483.75(r)(4). In § 483.75(t)(4), we are revising the reference "483.20(k)" to read "483.25."

IV. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, we are required to provide 30-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

We solicited public comment on each of these issues for the following sections of this document that contain information collection requirements (ICRs):

Proposed § 483.75(r)(2)(ii) stated that if hospice care were to be provided in an LTC facility through an agreement with a Medicare-certified hospice, the LTC facility would have to have a written agreement with the Medicare-certified hospice before care was furnished to any resident.

An LTC facility will be required to have only one written agreement with each hospice that provides services in the facility. This final rule will not require an LTC facility to have an individual agreement with a hospice for each resident receiving hospice services. Therefore, the burden associated with this requirement is the time and effort necessary for an LTC facility to develop and finalize one written agreement. Initially, the development of an agreement will require staff time; however, it will also require additional staff time to coordinate the care between the hospice and the LTC facility.

We estimate the number of hours to develop and finalize a written agreement to be approximately 5 hours the first year. The estimated burden associated with the first year is 80,695 hours or $5,512,275 for the 16,139 LTC facilities that would be affected by this rule. The current requirements at § 483.75(h) "Use of Outside Resources," requires a written agreement when contracting for outside services. Therefore, we expect that a facility will modify an existing agreement to make it specific to hospice services. Review and revision of an already existing agreement will be expected to take less time thereafter. We estimate that it will take 2 hours to review and revise the agreement annually. The estimated annual burden associated with each successive year after the first is 32,278 hours or $2,204,910. We have based our projections of the hourly cost on the rate for a staff lawyer at $68.31 an hour, which includes fringe benefits (estimated to be 25 percent of the salary). (Source: *Bureau of Labor Statistics, Occupational Employment Statistics Survey.*)

Proposed § 483.75(r)(2)(ii)(E)(1) through (4) stated that the LTC would have to notify the hospice immediately about—

- A significant change in the resident's physical, mental, social, or emotional status;
- Clinical complications that suggest a need to alter the plan of care;
- A need to transfer the resident from the facility for any condition that is not related to the terminal condition; or
- The resident's death.

The burden associated with these requirements is the time and effort it will take the LTC facility to provide notification to the hospice. We estimate it will take approximately 5 minutes per notification. We anticipate that this will affect 16,139 LTC facilities. If each LTC facility makes one notification each month, the burden associated with this requirement is 16,139 annual burden hours and the cost will be $504,344 annually, based on an hourly rate of $31.25 for a blended salary of a registered nurse and licensed practical nurse that includes fringe benefits, since either practitioner could notify the hospice of stated changes. (Source: Bureau of Labor Statistics, Occupational Employment Statistics Survey).

Proposed § 483.75(r)(2)(ii)(J) stated that under the agreement, the LTC facility would be required to report all alleged violations involving mistreatment, neglect, or verbal, mental, sexual, and physical abuse, including injuries of unknown source, and misappropriation of patient property by hospice personnel to the hospice administrator immediately when the LTC facility becomes aware of the alleged violation. The burden associated with this requirement is the time and effort it will take the LTC facility to report this information to the hospice administrator. We estimate it will take approximately 10 minutes per incident. We anticipate that this will affect 16,139 LTC facilities. If each LTC facility made one report per month, the burden associated with this requirement will be

32,278 annual burden hours and the cost would be $1,032,895 annually based on an hourly rate of $32 for a registered nurse that includes fringe benefits. (Source: *Bureau of Labor Statistics, Occupational Employment Statistics Survey.*)

ESTIMATED ANNUAL REPORTING AND RECORDKEEPING BURDEN

Regulation section(s)	OMB control No.	Respondents	Responses	Burden per response (hours)	Total annual burden (hours)	Hourly labor cost of reporting ($)	Total labor cost of reporting ($)	Total capital/ maintenance costs ($)	Total cost ($)
§ 483.75(r)(2)(ii)	0938—New	16,139	16,139	5	*80,695	68.31	5,512,275	0	5,512,275
		16,139	16,139	2	**32,278	68.31	2,204,910	0	2,204,910
§ 483.75(r)(2)(ii)(E)(1–4)	0938—New	16,139	193,668	.08333	16,139	31.25	504,344	0	504,344
§ 483.75(r)(2)(ii)(J)	0938—New	16,139	193,668	.16666	32,278	32.00	1,032,895	0	1,032,895
Total		16,139	209,807		161,390				9,254,424

*One time burden estimate for initial development of written agreement.
**Annual burden estimate associated with updating existing written agreements.

The comments we received on this proposal and our responses are set forth below.

Comment: A few commenters expressed concern about this rule creating additional administrative burden. One commenter was concerned that if the contracting process became too burdensome it could reduce beneficiary access to the critical services being requested.

Response: The burden associated with this requirement is the time and effort necessary to develop, draft, sign, and maintain the written agreement. The hospice regulations at § 418.112 require hospices that provide services to LTC residents to have written agreements with LTC facilities. Furthermore, the regulations at § 418.112 require those written agreements to include specific provisions that are equivalent to the specific provisions that were proposed for LTC facilities. This requirement has been in place for hospices since December, 2008. Therefore, LTC facilities that currently have relationships with hospice providers should already have these written agreements in place. In addition, we believe the use of this type of written agreement is a usual and customary business practice, and therefore will not create additional burden on the facility.

Comment: Other commenters stated that the rule would save money by preventing double billing of services provided to the patients.

Response: We appreciate the support from commenters who recognized that this rule may save money by preventing double billing of services to the patients.

If you have comments on the reporting, recordkeeping or third-party disclosure requirements contained in this final rule, please submit your comments to the Office of Information and Regulatory Affairs, Office of Management and Budget,

Attention: CMS Desk Officer, [CMS–3140–F]

Fax: (202) 395–6974; or

Email: *OIRA_submission@omb.eop.gov.*

V. Regulatory Impact Analysis

A. Statement of Need

This final rule will revise the requirements that an institution will have to meet in order to qualify to participate as a SNF in the Medicare program, or as an NF in the Medicaid program. These requirements will ensure that LTC facilities that choose to arrange for the provision of hospice care through an agreement with one or more Medicare-certified hospice providers will have in place a written agreement with the hospice that specified the roles and responsibilities of each entity.

Additionally, this rule will ensure that the duties and responsibilities of a hospice are clearly articulated if the hospice provides care in an LTC facility. Therefore, in order to ensure that quality hospice care is provided to LTC residents, we believe it is essential to add these requirements to the LTC regulations.

B. Overall Impact

We have examined the impact of this rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (February 2, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999) and the Congressional Review Act (5 U.S.C. 804(2).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). This rule does not qualify as a major rule as the estimated economic impact is $7,049,515 the first year and $3,742,150, thereafter.

The RFA requires agencies to analyze options for regulatory relief of small entities, if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, we estimate that the great majority of hospitals and most other health care providers and suppliers are small entities, either by being nonprofit organizations or by meeting the SBA definition of a small business (having revenues of less than $7.0 million to $34.5 million in any 1 year). For purposes of the RFA, the majority of hospitals, LTC facilities and hospices are considered to be small entities. Individuals and States are not included in the definition of a small entity. A rule has a significant economic impact on the small entities if it significantly affects their total costs or revenues. Under statute, we are required to assess the compliance burden the regulation will impose on small entities. Generally, we analyze the burden in terms of the impact it will have on entities' costs if these are identifiable or revenues. As a matter of sound analytic methodology, to the extent that data are available, we attempt to stratify entities by major operating characteristics such as size and geographic location. If the average annual impact on small entities is 3 to 5 percent or more, it is to be considered

significant. We estimate that these requirements will cost $437 ($7,049,515/16,139 facilities) per facility initially and $232 ($3,742,150/16,139 facilities) thereafter. This clearly is much below 1 percent; therefore, we do not anticipate it to have a significant impact. We do not have any data related to the number of LTC facilities contracting hospice care through an outside hospice provider; however, we are aware through annual surveys that not all LTC facilities arrange for the provision of hospice care.

In addition, section 1102(b) of the Social Security Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For the purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a metropolitan statistical area and has fewer than 100 beds. This rule will impact only LTC facilities. Therefore, the Secretary has determined that this proposed rule will not have any impact on the operations of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2011, that threshold is approximately $136 million. This rule will not have a significant impact on the governments mentioned or on private sector costs. The estimated economic effect of this rule is $7,049,515 the first year and $3,742,150 thereafter. These estimates are derived from our analysis of burden associated with these requirements in section III, "Collection of Information Requirements."

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This rule will not have any effect on State or local governments.

C. Anticipated Effects

1. Effects on LTC Facilities

The purpose of this rule is to ensure the coordination of care for LTC facility residents who elect hospice services. The coordination of care is anticipated to result in better outcomes related to quality of care and quality of life for residents. With appropriate coordination of care, we anticipate improved outcomes through more efficient coordination of care between the LTC facility staff and hospice staff, a decrease in duplication of services provided, and improved resident care.

2. Effects on Other Providers

We expect improved consistency in the provision of services to residents receiving hospice care in an LTC facility. We anticipate that primarily LTC facilities and Medicare-certified hospice providers will be affected, as this rule will be expected to improve coordination of care between LTC facilities and Medicare-certified hospice providers. In instances where a patient is transferred to the hospital for care unrelated to their terminal illness, the hospital should be notified that the patient has elected hospice care.

D. Alternatives Considered

We considered the effects of not addressing specific requirements for the provision of hospice care in LTC facilities. However, we believe that to improve quality and ensure consistency in the provision of hospice services in LTC facilities, it is important to delineate clear responsibilities for Medicare-certified hospice providers and LTC facilities. We expect that these requirements will result in improvement in the quality of care provided to LTC residents receiving hospice services.

E. Conclusion

This rule sets out an LTC facility's responsibilities for developing a written agreement with a hospice if a resident elects to receive hospice care. This rule also clarifies the responsibility of the facility that chooses not to arrange for the provision of hospice services at the facility through an agreement with a Medicare-certified hospice. These facilities must assist the resident in transferring to a facility that will arrange for the provision of hospice services when a resident requests a transfer.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 483

Grant programs—health, Health facilities, Health professions, Health records, Medicaid, Medicare, Nursing homes, Nutrition, Reporting and recordkeeping requirements, Safety.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR part 483 as set forth below:

PART 483—REQUIREMENTS FOR STATES AND LONG TERM CARE FACILITIES

■ 1. The authority citation for part 483 continues to read as follows:

Authority: Secs. 1102, 11281, and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

Subpart B—Requirements for Long Term Care Facilities

§ 483.10 [Amended]

■ 2. In § 483.10(n), the reference "§ 483.20(d)(2)(ii)" is revised to read "§ 483.20(k)(2)(ii)".

■ 3. Section 483.75 is amended by adding paragraph (t) to read as follows:

§ 483.75 Administration.

* * * * *

(t) *Hospice services.* (1) A long-term care (LTC) facility may do either of the following:

(i) Arrange for the provision of hospice services through an agreement with one or more Medicare-certified hospices.

(ii) Not arrange for the provision of hospice services at the facility through an agreement with a Medicare-certified hospice and assist the resident in transferring to a facility that will arrange for the provision of hospice services when a resident requests a transfer.

(2) If hospice care is furnished in an LTC facility through an agreement as specified in paragraph (t)(1)(i) of this section with a hospice, the LTC facility must meet the following requirements:

(i) Ensure that the hospice services meet professional standards and principles that apply to individuals providing services in the facility, and to the timeliness of the services.

(ii) Have a written agreement with the hospice that is signed by an authorized representative of the hospice and an authorized representative of the LTC facility before hospice care is furnished to any resident. The written agreement must set out at least the following:

(A) The services the hospice will provide.

(B) The hospice's responsibilities for determining the appropriate hospice plan of care as specified in § 418.112 (d) of this chapter.

(C) The services the LTC facility will continue to provide, based on each resident's plan of care.

(D) A communication process, including how the communication will be documented between the LTC facility and the hospice provider, to ensure that

the needs of the resident are addressed and met 24 hours per day.

(E) A provision that the LTC facility immediately notifies the hospice about the following:

(*1*) A significant change in the resident's physical, mental, social, or emotional status.

(*2*) Clinical complications that suggest a need to alter the plan of care.

(*3*) A need to transfer the resident from the facility for any condition.

(*4*) The resident's death.

(F) A provision stating that the hospice assumes responsibility for determining the appropriate course of hospice care, including the determination to change the level of services provided.

(G) An agreement that it is the LTC facility's responsibility to furnish 24-hour room and board care, meet the resident's personal care and nursing needs in coordination with the hospice representative, and ensure that the level of care provided is appropriately based on the individual resident's needs.

(H) A delineation of the hospice's responsibilities, including but not limited to, providing medical direction and management of the patient; nursing; counseling (including spiritual, dietary, and bereavement); social work; providing medical supplies, durable medical equipment, and drugs necessary for the palliation of pain and symptoms associated with the terminal illness and related conditions; and all other hospice services that are necessary for the care of the resident's terminal illness and related conditions.

(I) A provision that when the LTC facility personnel are responsible for the administration of prescribed therapies, including those therapies determined appropriate by the hospice and delineated in the hospice plan of care, the LTC facility personnel may administer the therapies where permitted by State law and as specified by the LTC facility.

(J) A provision stating that the LTC facility must report all alleged violations involving mistreatment, neglect, or verbal, mental, sexual, and physical abuse, including injuries of unknown source, and misappropriation of patient property by hospice personnel, to the hospice administrator immediately when the LTC facility becomes aware of the alleged violation.

(K) A delineation of the responsibilities of the hospice and the LTC facility to provide bereavement services to LTC facility staff.

(3) Each LTC facility arranging for the provision of hospice care under a written agreement must designate a member of the facility's interdisciplinary team who is responsible for working with hospice representatives to coordinate care to the resident provided by the LTC facility staff and hospice staff. The interdisciplinary team member must have a clinical background, function within their State scope of practice act, and have the ability to assess the resident or have access to someone that has the skills and capabilities to assess the resident. The designated interdisciplinary team member is responsible for the following:

(i) Collaborating with hospice representatives and coordinating LTC facility staff participation in the hospice care planning process for those residents receiving these services.

(ii) Communicating with hospice representatives and other healthcare providers participating in the provision of care for the terminal illness, related conditions, and other conditions, to ensure quality of care for the patient and family.

(iii) Ensuring that the LTC facility communicates with the hospice medical director, the patient's attending physician, and other practitioners participating in the provision of care to the patient as needed to coordinate the hospice care with the medical care provided by other physicians.

(iv) Obtaining the following information from the hospice:

(A) The most recent hospice plan of care specific to each patient.

(B) Hospice election form.

(C) Physician certification and recertification of the terminal illness specific to each patient.

(D) Names and contact information for hospice personnel involved in hospice care of each patient.

(E) Instructions on how to access the hospice's 24-hour on-call system.

(F) Hospice medication information specific to each patient.

(G) Hospice physician and attending physician (if any) orders specific to each patient.

(v) Ensuring that the LTC facility staff provides orientation in the policies and procedures of the facility, including patient rights, appropriate forms, and record keeping requirements, to hospice staff furnishing care to LTC residents.

(4) Each LTC facility providing hospice care under a written agreement must ensure that each resident's written plan of care includes both the most recent hospice plan of care and a description of the services furnished by the LTC facility to attain or maintain the resident's highest practicable physical, mental, and psychosocial well-being, as required at § 483.25.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: December 7, 2012.

Marilyn Tavenner,

Acting Administrator, Centers for Medicare & Medicaid Services.

Approved: June 14, 2013.

Kathleen Sebelius,

Secretary, Department of Health and Human Services.

[FR Doc. 2013–15313 Filed 6–26–13; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 02–60; FCC 12–150]

Rural Health Care Support Mechanism

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved the non-substantive revisions to the information collection associated with the Commission's Service Provider Identification Number and Contact Form. This announcement is consistent with the Universal Service—Rural Health Care Program, Report and Order (Order), which stated that the Commission would publish a document in the **Federal Register** announcing the effective date of those rules.

DATES: The amendments affecting 47 CFR 54.640(b) and 54.679 published at 78 FR 13936, March 1, 2013, are effective June 27, 2013.

FOR FURTHER INFORMATION CONTACT: Mark Walker, Wireline Competition Bureau at (202) 418–2668 or TTY (202) 418–0484.

SUPPLEMENTARY INFORMATION: This document announces that, on May 29, 2013, OMB approved the non-substantive revisions to the information collection requirements contained in the Commission's Service Provider Identification Number and Contact Form, 77 FR 42728, July 20, 2012. The OMB Control Number is 3060–0824. The Commission publishes this notice as an announcement of the effective date of the rules. If you have any comments on the burden estimates

listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Judy Herman, Federal Communications Commission, Room 1–C823, 445 12th Street SW., Washington, DC 20554. Please include the OMB Control Number, 3060–0824, in your correspondence. The Commission will also accept your comments via email please send them to *PRA@fcc.gov*.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on May 29, 2013, for the information collection requirements contained in the Commission's rules at 47 CFR 54.640(b) and 54.679.

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, 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, that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–0824.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–0824.

OMB Approval Date: May 29, 2013.

OMB Expiration Date: November 30, 2015.

Title: Service Provider Identification Number and Contact Form.

Form Number: FCC Form 498.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit and not-for-profit institutions.

Number of Respondents: 5,000 respondents; 5,000 responses.

Estimated Time per Response: 1.5 hours.

Frequency of Response: On occasion reporting requirements and third party disclosure requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in 47 U.S.C. 151–154 and 254 the Communications Act of 1934, as amended.

Total Annual Burden: 7,500 hours.

Total Annual Cost: N/A.

Privacy Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission notes that the Universal Service Administrative Company (USAC) who administers the universal service program must preserve the confidentiality of all data obtained from respondents and contributors to the universal service programs, must not use the data except for purposes of administering the universal service programs, and must not disclose data in company-specific form unless directed to do so by the Commission. With respect to the FCC Form 498, USAC shall publish each participant's name, Service Provider Identification Number (SPIN), and contact information via USAC's Web site. All other information, including financial institution account numbers or routing information, shall remain confidential.

Needs and Uses: The Commission has received OMB approval to the non-substantive revisions of this information collection.

One of the functions of USAC is to provide a means for the billing, collection and disbursement of funds for the universal service support mechanisms.

On October 1998, the OMB first approved FCC Form 498, the "Service Provider Information Form" to enable USAC to collect service provider name and address, telephone number, Federal Employer Identification Number (EIN), contact names, contact telephone numbers, and remittance information. FCC Form 498 enables participants to request a SPIN and provides the official record for participation in the universal service support mechanisms. The remittance information provided by participants on FCC Form 498 enables USAC to make payments to participants in the universal service support mechanisms.

The following non-substantive revisions were made to the FCC Form 498: Page 1, replaced "FRN Number" with "FCC Registration Number (CORES ID)", the same revisions were made to page 5 of the Instructions; Page 8, line 122, the Rural Health Care Program offset indicator was separated from the Schools and Libraries offset indicator, page 10 of the Instructions was revised to remove the mandatory offset requirement and page 14 of the Instructions was revised to add the separate offset indicator for the Rural Health Care Program; Page 8, line 23, added a certification for service providers (vendors) participating in the Healthcare Connect Fund, the same certification was added to page 14 of the Instructions; and Page 18 of the Instructions was revised to include a definition for "officer."

The information collected on the FCC Form 498 is used by USAC to disburse federal universal service support consistent with the specifications of eligible participants in the universal service programs. FCC Form 498 submissions also provide USAC with updated contact information so that USAC can contact universal service fund participants when necessary. Without such information, USAC would not be able to distribute support to the proper entities and this would prevent the Commission from fulfilling its statutory responsibilities under the Act to preserve and advance universal service.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2013–15312 Filed 6–26–13; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 78, No. 124
Thursday, June 27, 2013

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0538; Directorate Identifier 2012–NM–212–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 737–100, –200, –200C, –300, –400, and –500 series airplanes. This proposed AD was prompted by a report of cracks in stringer splices at body station STA 360 and STA 908, between stringer (S) S–10L and S–10R; cracks in butt straps between S–5L and S–3L, and S–3R and S–5R; vertical chem-mill fuselage skin cracks at certain butt joints; and an instance of cracking that occurred in all those three structural elements on one airplane. This proposed AD would require repetitive inspections for any cracking of stringer splices and butt straps, and related corrective and investigative actions if necessary. We are proposing this AD to detect and correct cracking in the three structural elements, which could result in the airplane not being able to sustain limit load requirements and possibly result in uncontrolled decompression.

DATES: We must receive comments on this proposed AD by August 12, 2013.

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

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: Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 917–6447; fax: (425) 917–6590; email: *wayne.lockett@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–2013–0538; Directorate Identifier 2012–NM–212–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 197 stringer splice cracks at body station (STA) 360 and STA 908, between stringer (S) S–10L and S–10R; 16 butt strap cracks between S–5L and S–3L, and S–3R and S–5R; and 12 vertical chem-mill fuselage skin cracks at certain butt joints. On one airplane, a maintenance inspection found that all three structural elements were cracked. Analysis indicates the cracking of the stringer splices is attributed to airplane fatigue loads. Cracking of the butt strap at STA 360 and STA 908 is attributed to fatigue loading from the S–4 lap joint. This condition, if not corrected, could result in the airplane not being able to sustain limit load requirements and possibly result in uncontrolled decompression.

Relevant Service Information

We reviewed Boeing Alert Service Bulletin 737–53A1322, dated November 5, 2012. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for Docket No. FAA–2013–0538.

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 accomplishing the actions specified in the service information described previously, except as discussed under "Differences Between the Proposed AD and the Service Information."

The phrase "related investigative actions" might be used in this proposed AD. "Related investigative actions" are follow-on actions that: (1) Are related to the primary actions, and (2) are actions that further investigate the nature of any condition found. Related investigative

actions in an AD could include, for example, inspections.

In addition, the phrase "corrective actions" might be 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

Boeing Alert Service Bulletin 737–53A1322, dated November 5, 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.

Boeing Alert Service Bulletin 737–53A1322, dated November 5, 2012, specifies to contact the manufacturer for instructions on how to inspect airplanes having line number 1 through 291, but this proposed AD would require inspections in accordance with a method we approve.

Costs of Compliance

We estimate that this proposed AD affects 612 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
Inspections	Up to 362 work-hours × $85 per hour = $30,770, per inspection cycle.	None	Up to $30,770, per inspection cycle.	Up to $18,831,240, per inspection cycle
Removal and reinstallation of butt strap fastener(s)	Up to 2 work-hours × $85 per hour = $170, per inspection cycle.	$0	Up to $170, per inspection cycle.	Up to $104,040, per inspection cycle

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 these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Stringer splice replacement	3 work-hours × $85 per hour = $255.	Operator-supplied, information not available.	$255

The work-hour estimate and parts cost information are not available for estimating the cost of a butt strap replacement.

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

The Boeing Company: Docket No. FAA–2013–0538; Directorate Identifier 2012–NM–212–AD.

(a) Comments Due Date

We must receive comments by August 12, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, certified in any category, as identified in Boeing Alert Service Bulletin 737–53A1322, dated November 5, 2012.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report of cracks in stringer splices at body station STA 360 and STA 908, between stringer (S) S–10L and S–10R; cracks in butt straps between S–5L and S–3L, and S–3R and S–5R; vertical chem-mill fuselage skin cracks at certain butt joints; and an instance of cracking that occurred in all those three structural elements on one airplane. We are issuing this AD to detect and correct cracking in the three structural elements, which could result in the airplane not being able to sustain limit load requirements and possibly result in uncontrolled decompression.

(f) Compliance

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

(g) Actions for Group 1 Airplanes

For Group 1 airplanes, as identified in Boeing Alert Service Bulletin 737–53A1322, dated November 5, 2012: At the compliance time specified in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 737–53A1322, dated November 5, 2012, except as provided by paragraph (j)(2) of this AD, inspect the stringers and butt straps and repair as applicable, using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(h) Actions for Groups 2 Through 6 Airplanes

For Groups 2 through 6 airplanes, as identified in Boeing Alert Service Bulletin 737–53A1322, dated November 5, 2012: At the applicable compliance time specified in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 737–53A1322, dated November 5, 2012, do the applicable inspections for cracking identified in paragraphs (h)(1) through (h)(4) of this AD, and all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1322, dated November 5, 2012, except as provided by paragraph (j) of this AD. Do all applicable corrective actions before further flight. Thereafter, repeat the applicable inspections at the compliance times specified in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 737–53A1322, dated November 5, 2012. Accomplishing the corrective actions for a cracked stringer splice, as specified in Boeing Alert Service Bulletin 737–53A1322, dated November 5, 2012, terminates the repetitive inspections required by this paragraph for that stringer splice only.

(1) Internal detailed inspections of the stringer splices and butt straps.

(2) Internal high-frequency eddy current (HFEC) surface inspections of the butt straps.

(3) Internal low-frequency eddy current (LFEC) inspection of the butt straps.

(4) HFEC open hole rotary probe inspections of butt straps or of one location of a butt strap, as applicable.

(i) Post-Repair Inspections

The post-repair inspection specified in Table 11 of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 737–53A1322, dated November 5, 2012, is not required by this AD.

Note 1 to paragraph (i) of this AD: The post-repair inspections specified in Table 11 of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 737–53A1322, dated November 5, 2012, may be used in support of compliance with section 121.1109(c)(2) or 129.109(b)(2) of the Federal Aviation Regulations (14 CFR 121.1109(c)(2) or 14 CFR 129.109(b)(2)). The corresponding actions specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1322, dated November 5, 2012, are not required by this AD.

(j) Exceptions to the Service Information

(1) Where Boeing Alert Service Bulletin 737–53A1322, dated November 5, 2012, specifies to contact Boeing for appropriate action: Before further flight, repair using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(2) Where Boeing Alert Service Bulletin 737–53A1322, dated November 5, 2012, specifies a compliance time "after the original issue date of this service bulletin," this AD requires compliance within the specified compliance time after the effective date of this AD.

(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 the Related Information section 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 Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 917–6447; fax: (425) 917–6590; email: *wayne.lockett@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 review copies of the referenced service information at the FAA, Transport Airplane Directorate; 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on June 13, 2013.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–15425 Filed 6–26–13; 8:45 am]

BILLING CODE 4910–13–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. 2011–0056]

20 CFR Parts 404, 405, and 416

RIN 0960–AH37

Changes to Scheduling and Appearing at Hearings

AGENCY: Social Security Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: We propose to revise our rules to protect the integrity of our programs and preserve limited resources. Prior to scheduling a hearing, we will notify the claimant that his or her hearing may be held by video teleconferencing. The claimant will have an opportunity to object to appearing by video teleconferencing within 30 days after the date he or she receives the notice. We also propose changes that allow us to determine that a claimant will appear via video teleconferencing if he or she changes residences while his or her request for hearing is pending, regardless of whether or not the claimant previously declined a hearing by video teleconferencing.

Additionally, we propose changes that require a claimant to notify us, in writing, of an objection to the time and place of hearing at the earliest opportunity, but not later than 5 days before the date set for the hearing, or, if

earlier, 30 days after receiving the notice of the hearing. We also propose to revise our rules so that an administrative law judge (ALJ) can direct a claimant and any other party to a hearing to appear by telephone in extraordinary circumstances.

We anticipate that these proposed changes will have a minimal impact on the public, and will help ensure the integrity of our programs and allow us to administer our programs more efficiently.

DATES: To ensure that your comments are considered, we must receive them no later than August 26, 2013.

ADDRESSES: You may submit comments by any one of three methods—Internet, fax, or mail. Do not submit the same comments multiple times or by more than one method. Regardless of which method you choose, please state that your comments refer to Docket No. SSA–2011–0056 so that we may associate your comments with the correct rule.

CAUTION: You should be careful to include in your comments only information that you wish to make publicly available. We strongly urge you not to include in your comments any personal information, such as Social Security numbers or medical information.

1. *Internet:* We strongly recommend that you submit your comments via the Internet. Please visit the Federal eRulemaking portal at *http://www.regulations.gov*. Use the *Search* function to find docket number SSA–2011–0056. The system will issue a tracking number to confirm your submission. You will not be able to view your comment immediately because we must post each comment manually. It may take up to a week for your comment to be viewable.

2. *Fax:* Fax comments to (410) 966–2830.

3. *Mail:* Mail your comments to the Office of Regulations and Reports Clearance, Social Security Administration, 107 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401.

Comments are available for public viewing on the Federal eRulemaking portal at *http://www.regulations.gov* or in person, during regular business hours, by arranging with the contact person identified below.

FOR FURTHER INFORMATION CONTACT: Brian J. Rudick, Office of Regulations and Reports Clearance, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–7102. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov*.

SUPPLEMENTARY INFORMATION:

Background

As part of our ongoing commitment to improve the way we process claims for benefits under the old-age, survivors, and disability insurance programs under title II of the Social Security Act (Act) and the supplemental security income (SSI) program under title XVI of the Act, we are proposing revisions to some of the procedures we follow at the ALJ hearing level. Our workloads at the ALJ hearing level have continued to grow, and we expect the number of requests for hearing will remain high over the next several years. Along with our continued developments and improvements in our electronic service delivery process, we anticipate that the proposed changes will help us provide better service by allowing us to conduct hearings and issue decisions more expeditiously.

Objecting to Appearing by Video Teleconferencing

Nearly a decade ago, we adopted rules that allow us to hold hearings by video teleconferencing, and we have continued to expand the use of video teleconferencing technology for hearings since that time. The addition of video teleconferencing capabilities has allowed us to open five National Hearing Centers (NHC). The NHCs allow us to manage our workloads more effectively and help us to reduce the hearing office backlog. NHCs are uniquely positioned to assist hearing offices with electronic cases that are scheduled for a hearing by video teleconferencing. ALJs in traditional hearing offices also hold hearings by video teleconferencing. In these cases, a claimant may attend the hearing by video teleconferencing at a hearing office closer to his or her residence, or, in some cases, at his or her local field office. Hearings held by video teleconferencing help reduce our average processing time, reduce travel expenses, and allow us to better serve the public.

At the same time that we have increased our video teleconference capacity, our commitment to transparency has made significantly more detailed information about our ALJs available to claimants and their representatives. We make available on our Internet site information about the performance of each of our ALJs, including information about the number of decisions each ALJ has made, and the breakdown of those decisions by outcome. Our increased use of the NHCs, the expansion of our video teleconferencing capacity, and the public availability of detailed information about the performance of each of our ALJs, including each ALJ's allowance rate, have had unintended consequences that can undermine the efficiency and integrity of our hearings process, as described below.

Under our current business processes, we notify claimants whether they will appear by video teleconferencing at the same time that we schedule the hearing. Our current regulations also provide that a claimant, or a representative on a claimant's behalf, may object to appearing by video teleconferencing at the earliest possible opportunity before the time set for the hearing. If the claimant files such an objection, the ALJ assigned to the case will find the objection is good cause to reschedule the hearing, so that the claimant can appear in person. In addition, a claimant may notify us at any time prior to appearing in person or via video teleconferencing at the hearing that he or she has a new residence, which could result in the case being transferred to, and rescheduled in, a new hearing office or region.

Because our regulations do not contain a specific time limit for objecting to appearing by video teleconferencing, we have experienced an increase in declinations to participate in hearings by video teleconferencing.[1] Similarly, a change in residence could result in a re-assignment to a different ALJ. We have become concerned that some claimants or their representatives may be using the ability to decline to appear by video teleconferencing or to request a case transfer due to a change in residence to undermine the random assignment of cases to our ALJs.

When claimants decline a hearing scheduled by video teleconferencing or request to reschedule an in-person hearing, the decision has a ripple effect throughout the hearing process. We must use limited administrative resources to reschedule a hearing at a time and place amenable to all hearing participants. Rescheduling hearings has an adverse effect on other claimants, some of whom must wait longer for a

[1] We took steps to address this issue beginning in December 2011 by changing the prehearing notices that we sent to claimants and their representatives. Those prehearing notices no longer included the name of the ALJ assigned to the case. We ended the policy we adopted in December 2011 effective April 20, 2013. Currently, we disclose the name of the ALJ assigned to a hearing when we send out a Notice of Hearing.

hearing while we accommodate the rescheduled hearing.

To better utilize our limited resources and make our hearing process more efficient for all claimants, we propose to modify our rules so that we would notify a claimant earlier in the process, before an ALJ is assigned or a hearing is scheduled, that he or she has the right to object to appearing at the hearing by video teleconferencing. If the claimant does not want to appear at the hearing in this manner, the claimant must object in writing within 30 days after the date he or she receives this notice. If we receive a timely objection, we will schedule the claimant for an in person hearing, with one limited exception.

The limited exception to this rule would apply when the claimant moves to a different residence while his or her request for a hearing is pending. If a claimant moves from one residence to another while his or her request for hearing is pending, we will determine whether a claimant will appear in person or by video teleconferencing, even if the claimant previously objected to appearing by video teleconferencing. In addition, the proposed rules explain that in order for us to consider a change in residence when scheduling a hearing, the claimant must submit evidence verifying a new residence. After we receive evidence regarding the claimant's new residence, we will decide how the claimant's appearance will be made. This limited exception to the rule would allow us to protect the integrity of our programs while providing us with the flexibility to transfer cases when there is a legitimate change in residence and such a transfer would allow us to process the case more efficiently.

Although a claimant retains the right to object to the time and place of the hearing once it is scheduled, as described below, we will not consider an objection based solely on appearing at the hearing by video teleconferencing if the claimant did not object within the required time period.

Time Period for Objecting to a Hearing

We also propose specifying the time period for objecting to the time and place of a hearing. To ensure that we have adequate time to prepare for the hearing, we propose to revise these rules to require that a claimant notify us of an objection in writing at the earliest possible opportunity, but not later than 5 days before the date set for the hearing or, if earlier, 30 days after receiving notice of the hearing.

If the claimant objects to the time and place of the hearing outside of the specified time period and fails to attend the hearing, the administrative law judge will follow existing sub-regulatory authority to develop good cause for failure to appear. For example, our current procedures require that when the claimant fails to appear at the hearing because of severe weather or a death in the family, the ALJ will find good cause for failure to appear and reschedule the hearing.

We also made other minor revisions to the proposed rules to clarify when we will reschedule a hearing for good cause. For instance, we removed the example that a claimant might offer living closer to another hearing site as a good cause reason to object to the time and place of the hearing. Additionally, in the proposed rules where we address rescheduling a hearing, we added editorial changes for internal consistency.

Appearing at the Hearing by Telephone

To further reduce the need to reschedule hearings and improve efficiency, we also propose to provide that the ALJ may determine that the claimant who requested the hearing, or any other party to the hearing, will appear at the hearing by telephone under extraordinary circumstances. For example, an ALJ will direct a claimant or other party to the hearing to appear by telephone when the person's appearance in person is not possible, such as when the person is incarcerated, and the correctional facility will not allow a hearing to be held at the facility, and video teleconferencing is not available. The flexibility in the proposed rule will also allow us to continue the practice of scheduling a hearing by telephone when the claimant specifically requests a hearing in this manner, and the ALJ determines that extraordinary circumstances prevent the claimant or other party who makes the request from appearing at the hearing in person or by video teleconferencing.

We anticipate that this proposed rule will benefit both us and the public. We spend significant administrative resources trying to arrange an in person hearing with the officials of the correctional facility. We also lose significant productivity if an ALJ is required to travel to a confinement facility to hold one or two hearings, because the travel to the facility prevents the ALJ from scheduling a full hearing docket for that day. Permitting us to schedule telephone appearances when extraordinary circumstances such as these exist would allow us to save limited administrative resources and allow us to provide more timely hearings to all claimants because the ALJ would be present in the hearing office to conduct a full hearing docket.

Part 405

We are proposing several changes to Part 405 for consistency with these proposed rules. We propose changes relating to video teleconferencing and hearing appearances by telephone in extraordinary circumstances, as described above.

Additionally, we are proposing other minor changes for consistency with other rules in Parts 404 and 416. Most significantly, for consistency with our pilot program in place in all regions except Boston, we are proposing changes in setting the time and place for hearing. Currently in the Boston region, the ALJ sets the time and place of hearing. In every other region the regulations state that we have the authority to set the time and place of hearing. We propose expanding that authority to Part 405.

Clarity of These Rules

Executive Order 12866 as supplemented by Executive Order 13563 requires each agency to write all rules in plain language. In addition to your substantive comments on this NPRM, we invite your comments on how to make rules easier to understand. For example:

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

When will we start to use these rules?

We will not use these rules until we evaluate public comments and publish final rules in the **Federal Register**. All final rules we issue include an effective date. We will continue to use our current rules until that date. If we publish final rules, we will include a summary of those relevant comments we received along with responses and an explanation of how we will apply the new rules.

Regulatory Procedures

Executive Order 12866 as Supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and determined that these proposed rules meet the criteria for a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563 and are subject to OMB review.

Regulatory Flexibility Act

We certify that these proposed rules will not have a significant economic impact on a substantial number of small entities because they affect individuals only. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, as amended.

Paperwork Reduction Act

These proposed rules contain reporting public reporting requirements in the regulation sections listed below. We are seeking approval for these regulation sections and for new a new SSA form, which we will use to collect the information required by these sections. Below we provide burden estimates for the public reporting requirements.

Regulation section	Description of public reporting requirement	Number of respondents (annually)	Frequency of response	Average burden per response (minutes)	Estimated annual burden*
404.936(c); 405.317(a); 416.1436(c).	If you object to video teleconferencing you must notify us in writing no later than 30 days after we send the acknowledgement letter.	850,000	1	5	70,833
404.936(e); 416.1436(e)	You must notify us if you wish to object to the time and place in writing no later than 5 days prior to hearing or 30 days after receiving notice of hearing.	900,000	1	30	450,000
404.938(a); 405.316(a); 416.1438(a).	Indication in writing that respondent does not wish to receive notice of hearing.	1,600	1	5	133
Total		1,751,600			520,966

We submitted an Information Collection Request for clearance to OMB. We are soliciting comments on the burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize the burden on respondents, including the use of automated techniques or other forms of information technology. If you would like to submit comments, please send them to the following locations:

Office of Management and Budget, Attn: Desk Officer for SSA, Fax Number: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

Social Security Administration, Attn: Reports Clearance Officer, 1333 Annex, 6401 Security Blvd., Baltimore, MD 21235–0001, Fax Number: 410–965–6400, Email: *OR Reports Clearance@ssa.gov.*

You can submit comments until August 26, 2013, which is 60 days after the publication of this notice. However, your comments will be most useful if you send them to SSA by July 29, 2013, which is 30 days after publication. To receive a copy of the OMB clearance package, contact the SSA Reports Clearance Officer using any of the above contact methods. We prefer to receive comments by email or fax.

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

List of Subjects

20 CFR Part 404

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

20 CFR Part 405

Administrative practice and procedure; Blind, Disability benefits; Old-Age, Survivors, and Disability Insurance; Public assistance programs; Reporting and recordkeeping requirements; Social Security; Supplemental Security Income (SSI).

20 CFR Part 416

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

Dated: June 18, 2013.

Carolyn W. Colvin,

Acting Commissioner of Social Security.

For the reasons set out in the preamble, we propose to amend 20 CFR chapter III parts 404, 405, and part 416 as set forth below:

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

Subpart J—Determinations, Administrative Review Process, and Reopening of Determinations and Decisions

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

Authority: Secs. 201(j), 204(f), 205(a)–(b), (d)–(h), and (j), 221, 223(i), 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 401(j), 404(f), 405(a)–(b), (d)–(h), and (j), 421, 423(i), 425, and 902(a)(5)); sec. 5, Pub. L. 97–455, 96 Stat. 2500 (42 U.S.C. 405 note); secs. 5, 6(c)–(e), and 15, Pub. L. 98–460, 98 Stat. 1802 (42 U.S.C. 421 note); sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 2. Revise § 404.929 to read as follows:

§ 404.929 Hearing before an administrative law judge—general.

If you are dissatisfied with one of the determinations or decisions listed in § 404.930 you may request a hearing. The Deputy Commissioner for Disability Adjudication and Review, or his or her delegate, will appoint an administrative law judge to conduct the hearing. If circumstances warrant, the Deputy Commissioner, or his or her delegate, may assign your case to another administrative law judge. At the hearing, you may appear in person, by video teleconferencing, or, under certain extraordinary circumstances, by telephone. You may submit new evidence, examine the evidence used in

making the determination or decision under review, and present and question witnesses. The administrative law judge who conducts the hearing may ask you questions. He or she will issue a decision based on the preponderance of the evidence in the hearing record. If you waive your right to appear at the hearing, in person, by video teleconferencing, or by telephone, the administrative law judge will make a decision based on the preponderance of the evidence that is in the file and any new evidence that may have been submitted for consideration.

■ 3. In § 404.936, revise paragraphs (b) and (c), redesignate paragraphs (d)–(e) as paragraphs (e)–(f), add a new paragraph (d) and revise redesignated paragraphs (e)–(f), to read as follows:

§ 404.936 Time and place for a hearing before an administrative law judge.

* * * * *

(b) *Where we hold hearings.* We hold hearings in the 50 States, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the United States Virgin Islands. The place of the hearing is the hearing office or other site(s) at which you and any other parties to the hearing are located when you make your appearance(s) before the administrative law judge, whether in person, by video teleconferencing, or by telephone.

(c) *Determining how appearances will be made.* In setting the time and place of the hearing, we will consider the following:

(1) We will consult with the administrative law judge to determine the status of case preparation and to determine whether your appearance, or the appearance of any other party to the hearing, will be made in person, by video teleconferencing or, under extraordinary circumstances, by telephone. The administrative law judge will determine that your appearance, or the appearance of any other party to the hearing, be conducted by video teleconferencing if video teleconferencing equipment is available to conduct the appearance, use of video teleconferencing to conduct the appearance would be more efficient than conducting the appearance in person, and the administrative law judge determines that there is no circumstance in the particular case that prevents the use of video teleconferencing to conduct the appearance. The administrative law judge will direct you or another party to the hearing to appear by telephone when:

(i) An appearance in person is not possible, such as if you are incarcerated and the facility will not allow a hearing to be held at the facility, and video teleconferencing is not available; or

(ii) The administrative law judge determines, either on his own, or at your request or the request of any other party to the hearing, that extraordinary circumstances prevent you or another party to the hearing from appearing at the hearing in person or by video teleconferencing.

(2) [Reserved]

(d) *Objecting to appearing by video teleconferencing.* Prior to scheduling your hearing, we will notify you that we may schedule you to appear by video teleconferencing. If you object to appearing by video teleconferencing, you must notify us in writing within 30 days after the date you receive the notice. If you notify us within that time period and your residence does not change while your request for hearing is pending, we will set your hearing for a time and place at which you may make your appearance before the administrative law judge in person. However, notwithstanding any objections you may have to appearing by video teleconferencing, if you change your residence while your request for hearing is pending, we may determine how you will appear, including by video teleconferencing, as provided in paragraph (c)(1) of this section. For us to consider your change of residence when we schedule your hearing, you must submit evidence verifying your new residence.

(e) *Objecting to the time or place of the hearing.* If you object to the time or place of your hearing, you must notify us in writing at the earliest possible opportunity, but not later than 5 days before the date set for the hearing or, if earlier, 30 days after receiving notice of the hearing. You must state the reason for your objection and state the time and place you want the hearing to be held. We will change the time or place of the hearing if the administrative law judge finds you have good cause, as determined under paragraph (f) of this section. Section 404.938 provides procedures we will follow when you do not respond to a notice of hearing.

(f) *Good cause for changing the time or place.* The administrative law judge will determine whether good cause exists for changing the time or place of your scheduled hearing. However, a finding that good cause exists to reschedule the time or place of your hearing will not change the assignment of the administrative law judge for your case, unless we determine reassignment will promote more efficient administration of the hearing process.

(1) We will reschedule your hearing, if your reason is one of the following circumstances and is supported by the evidence:

(i) A serious physical or mental condition or incapacitating injury makes it impossible for you or your representative to travel to the hearing, or a death in the family occurs; or

(ii) Severe weather conditions make it impossible for you or your representative to travel to the hearing.

(2) In determining whether good cause exists in circumstances other than those set out in subparagraph (1) of this section, the administrative law judge will consider your reason for requesting the change, the facts supporting it, and the impact of the proposed change on the efficient administration of the hearing process. Factors affecting the impact of the change include, but are not limited to, the effect on the processing of other scheduled hearings, delays which might occur in rescheduling your hearing, and whether we granted you any prior changes. Examples of such other circumstances that you might give for requesting a change in the time or place of the hearing include, but are not limited to, the following:

(i) You unsuccessfully attempted to obtain a representative and need additional time to secure representation;

(ii) Your representative was appointed within 30 days of the scheduled hearing and needs additional time to prepare for the hearing;

(iii) Your representative has a prior commitment to be in court or at another administrative hearing on the date scheduled for the hearing;

(iv) A witness who will testify to facts material to your case would be unavailable to attend the scheduled hearing and the evidence cannot be otherwise obtained;

(v) Transportation is not readily available for you to travel to the hearing; or

(vi) You are unrepresented, and you are unable to respond to the notice of hearing because of any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which you may have.

* * * * *

■ 4. In § 404.938, revise paragraph (b) to read as follows:

§ 404.938 Notice of a hearing before an administrative law judge.

* * * * *

(b) *Notice information.* The notice of hearing will contain a statement of the specific issues to be decided and tell

you that you may designate a person to represent you during the proceedings. The notice will also contain an explanation of the procedures for requesting a change in the time or place of your hearing, a reminder that if you fail to appear at your scheduled hearing without good cause the administrative law judge may dismiss your hearing request, and other information about the scheduling and conduct of your hearing. You will also be told if your appearance or that of any other party or witness is scheduled to be made in person, by video teleconferencing, or by telephone. If we have scheduled you to appear at the hearing by video teleconferencing, the notice of hearing will tell you that the scheduled place for the hearing is a video teleconferencing site and explain what it means to appear at your hearing by video teleconferencing.

* * * * *

PART 405—ADMINISTRATIVE REVIEW PROCESS FOR ADJUDICATING INITIAL DISABILITY CLAIMS

■ 5. The authority citation for part 405 continues to read as follows:

Authority: Secs. 201(j), 205(a)–(b), (d)–(h), and (s), 221, 223(a)–(b), 702(a)(5), 1601, 1602, 1631, and 1633 of the Social Security Act (42 U.S.C. 401(j), 405(a)–(b), (d)–(h), and (s), 421, 423(a)–(b), 902(a)(5), 1381, 1381a, 1383, and 1383b).

■ 6. In § 405.315, revise paragraphs (a)–(c), and add new paragraphs (d)–(e), to read as follows:

§ 405.315 Time and place for a hearing before an administrative law judge.

(a) *General.* We may set the time and place for the hearing. We may change the time and place, if it is necessary. If we change the time and place of the hearing, we will send you reasonable notice of the change. We will notify you of the time and place of the hearing at least 75 days before the date of the hearing, unless you agree to a shorter notice period.

(b) *Where we hold hearings.* We hold hearings in the 50 States, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the United States Virgin Islands. The place of the hearing is the hearing office or other site(s) at which you and any other parties to the hearing are located when you make your appearance(s) before the administrative law judge, whether in person, by video teleconferencing, or by telephone.

(c) *Determining how appearances will be made.* In setting the time and place of the hearing, we will consider the following:

(1) We will consult with the administrative law judge to determine the status of case preparation and to determine whether your appearance will be made in person or by video teleconferencing or, under extraordinary circumstances, by telephone. The administrative law judge will determine that your appearance be conducted by video teleconferencing if video teleconferencing equipment is available to conduct the appearance, use of video teleconferencing to conduct the appearance would be more efficient than conducting the appearance in person, and the administrative law judge determines that there is no circumstance in the particular case that prevents the use of video teleconferencing to conduct the appearance. The administrative law judge will direct you to appear by telephone when:

(i) An appearance in person is not possible, such as if you are incarcerated and the facility will not allow a hearing to be held at the facility, and video teleconferencing is not available; or

(ii) The administrative law judge determines, either on his own, or at your request or the request of any other party to the hearing, that extraordinary circumstances prevent you or another party to the hearing from appearing at the hearing in person or by video teleconferencing.

(2) Reserved

(d) Consultation procedures. Before we exercise the authority to set the time and place for an administrative law judge's hearings, we will consult with the appropriate hearing office chief administrative law judge to determine if there are any reasons why we should not set the time and place of the administrative law judge's hearings. If the hearing office chief administrative law judge does not state a reason that we believe justifies the limited number of hearings scheduled by the administrative law judge, we will then consult with the administrative law judge before deciding whether to begin to exercise our authority to set the time and place for the administrative law judge's hearings. If the hearing office chief administrative law judge states a reason that we believe justifies the limited number of hearings scheduled by the administrative law judge, we will not exercise our authority to set the time and place for the administrative law judge's hearings. We will work with the hearing office chief administrative law judge to identify those circumstances where we can assist the administrative law judge and address any impediment that may affect the scheduling of hearings.

(e) *Pilot program.* The provisions in the first three sentences of paragraph (a), the first sentence of paragraph (c)(1), and paragraph (d) of this section are a pilot program. These provisions will no longer be effective on August 9, 2016, unless we terminate them earlier or extend them beyond that date by notice of a final rule in the **Federal Register**.

■ 7. In 405.316, revise paragraphs (a) and (b)(5), to read as follows:

(a) *Issuing the notice.* After we set the time and place of the hearing, we will mail notice of the hearing to you at your last known address, or give the notice to you by personal service, unless you have indicated in writing that you do not wish to receive this notice. We will mail or serve the notice at least 75 days before the date of the hearing, unless you agree to a shorter notice period.

(b) * * *

(5) Whether your appearance or that of any witness is scheduled to be made in person, by video teleconferencing, or by telephone. If we have scheduled you to appear at the hearing by video teleconferencing, the notice of hearing will tell you that the scheduled place for the hearing is a video teleconferencing site and explain what it means to appear at your hearing by video teleconferencing.

* * * * *

■ 8. Revise § 405.317 to read as follows:

§ 405.317 Objections.

(a) *Objecting to appearing by video teleconferencing.* Prior to scheduling your hearing, we will notify you that we may schedule you to appear by video teleconferencing. If you object to appearing by video teleconferencing, you must notify us in writing within 30 days after the date you receive the notice. If you notify us within that time period and your residence does not change while your request for hearing is pending, we will set your hearing for a time and place at which you may make your appearance before the administrative law judge in person. However, notwithstanding any objections you may have to appearing by video teleconferencing, if you change your residence while your request for hearing is pending, we may determine how you will appear, including by video teleconferencing, as provided in section 405.315 of this part. For us to consider a change of residence when we schedule your hearing, you must submit evidence verifying your new residence.

(b) Objecting to the *time and place of the hearing.* (1) If you object to the time or place of your hearing, you must notify us in writing at the earliest possible opportunity before the date set

for the hearing, but no later than 30 days after receiving notice of the hearing. You must state the reason(s) for your objection and state the time and place you want the hearing to be held.

(2) The administrative law judge will consider your reason(s) for requesting the change and the impact of the proposed change on the efficient administration of the hearing process. Factors affecting the impact of the change include, but are not limited to, the effect on the processing of other scheduled hearings, delays which might occur in rescheduling your hearing, and whether we previously granted to you any changes in the time or place of your hearing. However, an objection to the time or place of your hearing will not change the assignment of the administrative law judge for your case, unless we determine reassignment will promote more efficient administration of the hearing process.

(c) *Issues.* If you believe that the issues contained in the hearing notice are incorrect, you should notify the administrative law judge in writing at the earliest possible opportunity, but must notify him or her no later than five business days before the date set for the hearing. You must state the reason(s) for your objection. The administrative law judge will make a decision on your objection either at the hearing or in writing before the hearing.

■ 9. In § 405.350, revise the first sentence of paragraph (a) to read as follows:

§ 405.350 Presenting evidence at a hearing before an administrative law judge.

(a) * * * You have a right to appear before the administrative law judge, either in person or, when the administrative law judge determines that the conditions in § 405.315(c) exist, by video teleconferencing or telephone, to present evidence and to state your position. * * *

* * * * *

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

Subpart N—Determinations, Administrative Review Process, and Reopening of Determinations and Decisions

■ 10. The authority citation for subpart N of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1383, and 1383b); sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 11. Revise § 416.1429 to read as follows:

§ 416.1429 Hearing before an administrative law judge-general.

If you are dissatisfied with one of the determinations or decisions listed in § 416.1430 you may request a hearing. The Deputy Commissioner for Disability Adjudication and Review, or his or her delegate, will appoint an administrative law judge to conduct the hearing. If circumstances warrant, the Deputy Commissioner, or his or her delegate, may assign your case to another administrative law judge. At the hearing, you may appear in person, by video teleconferencing, or, under certain extraordinary circumstances, by telephone. You may submit new evidence, examine the evidence used in making the determination or decision under review, and present and question witnesses. The administrative law judge who conducts the hearing may ask you questions. He or she will issue a decision based on the preponderance of the evidence in the hearing record. If you waive your right to appear at the hearing, in person, by video teleconferencing, or by telephone, the administrative law judge will make a decision based on the preponderance of the evidence that is in the file and any new evidence that may have been submitted for consideration.

■ 12. In § 416.1436, revise paragraphs (b) and (c), redesignate paragraphs (d)–(e) as paragraphs (e)–(f), add a new paragraph, (d) and revise redesignated paragraphs (e)–(f), to read as follows:

§ 416.1436 Time and place for a hearing before an administrative law judge.

* * * * *

(b) *Where we hold hearings.* We hold hearings in the 50 States, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the United States Virgin Islands. The place of the hearing is the hearing office or other site(s) at which you and any other parties to the hearing are located when you make your appearance(s) before the administrative law judge, whether in person, by video teleconferencing, or by telephone.

(c) *Determining how appearances will be made.* In setting the time and place of the hearing, we will consider the following:

(1) We will consult with the administrative law judge to determine the status of case preparation and to determine whether your appearance, or the appearance of any other party to the hearing, will be made in person, by video teleconferencing, or, under extraordinary circumstances, by telephone. The administrative law judge will determine that your appearance, or the appearance of any other party to the hearing, be conducted by video teleconferencing if video teleconferencing equipment is available to conduct the appearance, use of video teleconferencing to conduct the appearance would be more efficient than conducting the appearance in person, and the administrative law judge determines there is no circumstance in the particular case that prevents the use of video teleconferencing to conduct the appearance. The administrative law judge will direct you or another party to the hearing to appear by telephone when:

(i) An appearance in person is not possible, such as if you are incarcerated and the facility will not allow a hearing to be held at the facility, and video teleconferencing is not available; or

(ii) The administrative law judge determines, either on his own, or at your request or the request of any other party to the hearing, that extraordinary circumstances prevent you or another party to the hearing from appearing at the hearing in person or by video teleconferencing.

(2) Reserved

(d) *Objecting to appearing by video teleconferencing.* Prior to scheduling your hearing, we will notify you that we may schedule you to appear by video teleconferencing. If you object to appearing by video teleconferencing, you must notify us in writing within 30 days after the date you receive the notice. If you notify us within that time period and your residence does not change while your request for hearing is pending, we will set your hearing for a time and place at which you may make your appearance before the administrative law judge in person. However, notwithstanding any objections you may have to appearing by video teleconferencing, if you change your residence while your request for hearing is pending, we may determine how you will appear, including by video teleconferencing, as provided in paragraph (c)(1) of this section. For us to consider your change of residence when we schedule your hearing, you must submit evidence verifying your new residence.

(e) *Objecting to the time or place of the hearing.* If you object to the time or place of your hearing, you must notify us in writing at the earliest possible opportunity, but not later than 5 days before the date set for the hearing or, if earlier, 30 days after receiving notice of the hearing. You must state the reason for your objection and state the time and place you want the hearing to be held. We will change the time or place of the

hearing if the administrative law judge finds you have good cause, as determined under paragraph (f) of this section. Section 416.1438 provides procedures we will follow when you do not respond to a notice of hearing.

(f) *Good cause for changing the time or place.* The administrative law judge will determine whether good cause exists for changing the time or place of your scheduled hearing. However, a finding that good cause exists to reschedule the time or place of your hearing will not change the assignment of the administrative law judge for your case, unless we determine reassignment will promote more efficient administration of the hearing process.

(1) We will reschedule your hearing, if your reason is one of the following circumstances and is supported by the evidence:

(i) A serious physical or mental condition or incapacitating injury makes it impossible for you or your representative to travel to the hearing, or a death in the family occurs; or

(ii) Severe weather conditions make it impossible for you and your representative to travel to the hearing.

(2) In determining whether good cause exists in circumstances other than those set out in subparagraph (1) of this section, the administrative law judge will consider your reason for requesting the change, the facts supporting it, and the impact of the proposed change on the efficient administration of the hearing process. Factors affecting the impact of the change include, but are not limited to, the effect on the processing of other scheduled hearings, delays which might occur in rescheduling your hearing, and whether we granted you any prior changes. Examples of such other circumstances that you might give for requesting a change in the time or place of the hearing include, but are not limited to, the following:

(i) You unsuccessfully attempted to obtain a representative and need additional time to secure representation;

(ii) Your representative was appointed within 30 days of the scheduled hearing and needs additional time to prepare for the hearing;

(iii) Your representative has a prior commitment to be in court or at another administrative hearing on the date scheduled for the hearing;

(iv) A witness who will testify to facts material to your case would be unavailable to attend the scheduled hearing and the evidence cannot be otherwise obtained;

(v) Transportation is not readily available for you to travel to the hearing; or

(vi) You are unrepresented, and you are unable to respond to the notice of hearing because of any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which you may have.

* * * * *

■ 13. In § 416.1438, revise paragraph (b) to read as follows:

§ 416.1438 Notice of a hearing before an administrative law judge.

* * * * *

(b) *Notice information.* The notice of hearing will contain a statement of the specific issues to be decided and tell you that you may designate a person to represent you during the proceedings. The notice will also contain an explanation of the procedures for requesting a change in the time or place of your hearing, a reminder that if you fail to appear at your scheduled hearing without good cause the administrative law judge may dismiss your hearing request, and other information about the scheduling and conduct of your hearing. You will also be told if your appearance or that of any other party or witness is scheduled to be made in person, by video teleconferencing, or by telephone. If we have scheduled you to appear at the hearing by video teleconferencing, the notice of hearing will tell you that the scheduled place for the hearing is a video teleconferencing site and explain what it means to appear at your hearing by video teleconferencing.

* * * * *

[FR Doc. 2013–14894 Filed 6–26–13; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 83

[DR.5A211.IA000413]

RIN 1076–AF18

Procedures for Establishing That an American Indian Group Exists as an Indian Tribe

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of tribal consultation sessions and public meetings.

SUMMARY: The Office of the Assistant Secretary—Indian Affairs is examining ways to improve the Department's process for acknowledging an Indian tribe, as set forth in regulations. This document announces a comment period, tribal consultation sessions, and public comment sessions on a preliminary discussion draft of potential revisions to improve the Federal acknowledgment process.

DATES: Comments must be received by August 16, 2013. See the **SUPPLEMENTARY INFORMATION** section of this notice for dates of the tribal consultation sessions and public comment sessions.

ADDRESSES: See the **SUPPLEMENTARY INFORMATION** section of this notice for locations of the tribal consultation sessions and public hearings and a Web site where the preliminary discussion draft is available. You may submit comments by any of the following methods:

—*Federal Rulemaking Portal: http://www.regulations.gov.* The rule is listed under the agency name "Bureau of Indian Affairs" and Docket ID "BIA–2013–0007."

—*Email: consultation@bia.gov.* Include "1076–AF18" in the subject line of the message.

—*Mail or Hand-Delivery:* Elizabeth Appel, Office of Regulatory Affairs & Collaborative Action, U.S. Department of the Interior, 1849 C Street NW., MS 4141, Washington, DC 20240. Include "1076–AF18" on the cover of the submission.

FOR FURTHER INFORMATION CONTACT: Elizabeth Appel, Acting Director, Office of Regulatory Affairs & Collaborative Action, (202) 273–4680, *elizabeth.appel@bia.gov.*

SUPPLEMENTARY INFORMATION: The Department's process for acknowledging an Indian tribe is set forth at 25 CFR part 83, "Procedures for Establishing that an American Indian Group exists as an Indian Tribe" (Part 83 Process). Through adherence to this process, the Department seeks to make consistent, well-grounded decisions when acknowledging a petitioner's government-to-government relationship with the United States. The Part 83 Process is criticized for being, among other things, expensive, burdensome, less than transparent, and inflexible. The preliminary discussion draft of potential revisions to part 83 is intended to generate comments on potential improvements to the process, while maintaining the integrity of the acknowledgment decisions.

This notice announces the availability of a preliminary discussion draft of potential revisions for public review at: *http://www.bia.gov/WhoWeAre/AS–IA/Consultation/index.htm.* Comments on the discussion draft are due by the date indicated in the **DATES** section of this notice. We will be hosting several meetings to obtain input on the

discussion draft. Morning sessions are tribal consultation sessions reserved only for representatives of federally recognized tribes. Afternoon sessions are open to the public.

The meetings to obtain input will be held on the dates and at the locations shown below. All times are local.

Date	Tribal consultation session	Public meeting	Location	Venue
July 23, 2013	9 a.m.–12 p.m	1 p.m.–4 p.m	Canyonville, Oregon	Seven Feathers Casino Resort, 146 Chief Miwaleta Lane, Canyonville, OR 97417, (541) 839–1111.
July 25, 2013	9 a.m.–12 p.m	1 p.m.–4 p.m	Solvang, California	Hotel Corque, 400 Alisal Road Solvang, CA 93463, (800) 624–5572.
July 29, 2013	9 a.m.–12 p.m	1 p.m.–4 p.m	Petosky, Michigan	Odawa Casino Resort, 1760 Lears Road, Petosky, MI 49770, (877) 442–6464.
July 31, 2013	9 a.m.–12 p.m	1 p.m.–4 p.m	Indian Island, Maine	Sockalexis Arena, 16 Wabanaki Way, Indian Island, ME 04468, (800) 255–1293.
August 6, 2013	9 a.m.–12 p.m	1 p.m.–4 p.m	Marksville, Louisiana	Paragon Casino Resort, 711 Paragon Place, Marksville, LA 71351, (800) 946–1946.

Following this first round of consultation and public input, we will review the comments received and then prepare a proposed rule for publication in the **Federal Register**. This will open a second round of consultation and the formal comment period to allow for further refining of the regulations prior to publication as a final rule.

Dated: June 21, 2013.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2013–15329 Filed 6–26–13; 8:45 am]

BILLING CODE 4310–6W–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2013–0004; Notice No. 135]

RIN 1513–AB96

Proposed Establishment of the Eagle Peak Mendocino County Viticultural Area and Realignments of the Mendocino and Redwood Valley Viticultural Areas

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) proposes to establish the approximately 26,260-acre "Eagle Peak Mendocino County" viticultural area in northern California. TTB also proposes to modify the boundaries of the existing Mendocino viticultural area and the Redwood Valley viticultural area. The proposed boundary modifications would decrease the size of the 327,437-acre Mendocino viticultural area by 1,900 acres and decrease the size of the 32,047-acre Redwood Valley viticultural area by 1,430 acres. The proposed modifications of the two existing viticultural areas would eliminate potential overlaps with the proposed Eagle Peak Mendocino County viticultural area. The proposed viticultural area and the two existing viticultural areas all lie entirely within Mendocino County, California, and the multi-county North Coast viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase. TTB invites comments on these proposals.

DATES: TTB must receive your comments on or before August 26, 2013.

ADDRESSES: Please send your comments on this proposal to one of the following addresses:

- *http://www.regulations.gov* (via the online comment form for this document as posted within Docket No. TTB–2013–0004 at "Regulations.gov," the Federal e-rulemaking portal);
- *U.S. mail:* Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; or
- *Hand delivery/courier in lieu of mail:* Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Suite 200E, Washington, DC 20005.

See the Public Participation section of this document for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

You may view copies of this document, selected supporting materials, and any comments TTB receives about this proposal at *http://www.regulations.gov* within Docket No. TTB–2013–0004. A link to that docket is posted on the TTB Web site at *http://www.ttb.gov/wine/wine-rulemaking.shtml* under Notice No. 135. You also may view copies of this document, all related petitions, maps or other supporting materials, and any comments TTB receives about this proposal by appointment at the TTB Information Resource Center, 1310 G Street NW., Washington, DC 20005. Please call 202–453–2270 to make an appointment.

FOR FURTHER INFORMATION CONTACT: Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; phone 202–453–1039, ext. 175.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels, and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120–01 (Revised), dated January 21, 2003, to the TTB Administrator to perform the functions and duties in the administration and enforcement of this law.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin

on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission of petitions for the establishment or modification of American viticultural areas and lists the approved American viticultural areas.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features as described in part 9 of the regulations and a name and a delineated boundary as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographic origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for the establishment or modification of American viticultural areas. Petitions to establish a viticultural area must include the following:

- Evidence that the area within the proposed viticultural area boundary is nationally or locally known by the viticultural area name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed viticultural area;
- A narrative description of the features of the proposed viticultural area that affect viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed viticultural area distinctive and distinguish it from adjacent areas outside the proposed viticultural area boundary;
- A copy of the appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed viticultural area, with the boundary of the proposed viticultural area clearly drawn thereon; and
- A detailed narrative description of the proposed viticultural area boundary based on USGS map markings.

Petitions to modify the boundary of an existing viticultural area which would result in a decrease in the size of an existing viticultural area must include the following:

- An explanation of the extent to which the current viticultural name does not apply to the excluded area;
- An explanation of how the distinguishing features of the excluded area are different from those within the boundary of the smaller viticultural area; and
- An explanation of how the boundary of the existing viticultural area was incorrectly or incompletely defined or is no longer accurate due to new evidence or changed circumstances.

Eagle Peak Mendocino County Establishment Petition; Mendocino and Redwood Valley Modification Petitions

TTB received three petitions on behalf of local grape growers from Mr. Ralph Jens Carter, one proposing the establishment of the "Eagle Peak Mendocino County" viticultural area and two separate companion petitions proposing the modification of the boundaries of the existing "Mendocino" (27 CFR 9.93) and "Redwood Valley" (27 CFR 9.153) viticultural areas. The proposed viticultural area and the two existing viticultural areas lie entirely within Mendocino County and the multi-county North Coast viticultural area (27 CFR 9.30) in northern California. The proposed Eagle Peak Mendocino County viticultural area contains approximately 26,260 acres, of which approximately 120 acres are in 16 commercial vineyards. The proposed viticultural area lies to the west of both the Redwood Valley viticultural area and the eastern portion of the V-shaped Mendocino viticultural area.

A small portion of the proposed Eagle Peak Mendocino County viticultural area would, if established, overlap portions of the established Mendocino and Redwood Valley viticultural areas. To eliminate the potential overlaps, the petitioner proposed to modify the boundaries of the Mendocino and Redwood Valley viticultural areas. The proposed boundary modifications would eliminate the potential overlap and would remove the overlapped areas from the Mendocino and Redwood Valley viticultural areas. The proposed modifications would reduce the size of the 32,047-acre Redwood Valley viticultural area boundary by approximately 1,430 acres and reduce the size of the 327,437-acre Mendocino viticultural area by approximately 1,900 acres.

Two vineyards, Golden Vineyards and Masut Vineyards, currently exist within the area of the proposed boundary modification. The western portion of the Redwood Valley viticultural area boundary currently runs through both vineyards, splitting each property between the Redwood Valley and Mendocino viticultural areas. If TTB adopts the proposed boundary modifications, the division would be eliminated and both vineyards would lie wholly within the proposed Eagle Peak Mendocino County viticultural area. The affected growers have both provided TTB with written support for the proposed modification of the boundaries of the Mendocino and Redwood Valley viticultural areas, and they support the establishment of the proposed Eagle Peak Mendocino County viticultural area.

The distinguishing features of the proposed viticultural area include climate, geology, topography, and soils. Unless otherwise noted, all information and data contained in the below sections are from either the petition to establish the proposed Eagle Peak Mendocino County viticultural area and its supporting exhibits or the companion petitions to modify the boundaries of the established Mendocino and Redwood Valley viticultural areas.

Eagle Peak Mendocino County

Name Evidence

Eagle Peak is a prominent summit within the proposed Eagle Peak Mendocino County viticultural area, and various sources list "Eagle Peak" as a name associated with the proposed viticultural area. The United States Geological Survey (USGS) Laughlin Range map identifies a 2,699-foot elevation point, approximately 6 miles west of the Redwood Valley Rancheria, as Eagle Peak. The United States Department of Agriculture Soil Survey, Mendocino County, Eastern Part, Sheet 26, identifies a mountain summit north of Jack Smith Creek and south of Mill Creek as Eagle Peak, and the USGS Geographic Names Information System (GNIS) lists Eagle Peak as a summit in Mendocino County. A mountain pass in the Laughlin Range within the proposed viticultural area is designated as "Eagle Peak Crossing." Although the pass is not marked on the USGS maps, the petitioner provided a photograph of a road sign that marks the latitude, longitude, and elevation of the pass, as well as its name.

Section 9.12(a)(1)(ii) of TTB regulations allows local businesses and road names to be used as evidence that the region of a proposed viticultural area is known by the proposed name. Because the proposed viticultural area is in a mountainous, rural region, there are few businesses within it and few named roads shown on the USGS maps. However, the petitioner provided a Mendocino County land parcel map that shows an Eagle Peak Road and an Eagle Peak Court within the proposed viticultural area. The petitioner also provided a page from the Western Bison Association's internet directory that shows a listing for Eagle Peak Bison Ranch, which is located within the proposed viticultural area. Finally, because § 9.12(a)(1)(ii) allows anecdotal evidence taken from local residents with knowledge of the name and its use to be presented to support other name evidence, the petitioner provided a petition signed by several local residents attesting that the area of the proposed viticultural area is known as "Eagle Peak."

The GNIS lists 47 summits in the United States designated as "Eagle Peak," including 16 others in California. Therefore, the petition included the modifier "Mendocino County" in the proposed name, to pinpoint the geographical location of the proposed viticultural area and avoid potential confusion for consumers.

Boundary Evidence

The proposed Eagle Peak Mendocino County viticultural area is located approximately 125 miles north of San Francisco, in a climatic transition zone between the cooler Pacific coast and the hotter inland valleys. The proposed viticultural area extends from the Redwood Valley to the south, northward to just south of the small community known as Ridge, California.

The proposed viticultural area consists mostly of steep upland terrain. The western portion of the boundary of the proposed viticultural area is formed by a ridge of the California Coast Range. The steep peaks of the Laughlin Range form the northern portion of the proposed boundary and gradually descend to the lower, flatter land of Little Lake Valley near Willits, a town north of the proposed viticultural area. The proposed eastern and southeastern portions of the boundary are marked by lower elevations that descend to the nearly level floors of the Redwood and Ukiah Valleys, outside of the proposed viticultural area.

The boundary of the proposed Eagle Peak Mendocino County viticultural area also encompasses the Forsythe Creek watershed. Drainage begins within the proposed viticultural area at the headwaters of Forsythe Creek, which joins downstream with the Walker, Mill, and Seward Creeks, and continues to the confluence with the Russian River headwaters in Redwood Valley, southeast of the proposed boundary.

The boundary of the proposed Eagle Peak Mendocino County viticultural area and the related modifications to the Mendocino and Redwood Valley viticultural areas differ slightly from those outlined in the original petitions. With the petitioner's agreement, TTB made several small adjustments to the originally-proposed boundaries in order to use features found on all three map sets, since the Mendocino area's maps are of a different scale than those used for the other two areas. The petitioner also revised the proposed Eagle Peak Mendocino County boundary in order to eliminate the inclusion of some Redwood Valley floor land in the proposed viticultural area's southeastern corner.

Distinguishing Features

Climate

The proposed Eagle Peak Mendocino County viticultural area has a transitional climate between the cool, wet climate of the Pacific coastline and the warmer, drier air of the interior valleys. This transitional climate influences grape-growing practices within the proposed viticultural area.

Temperatures: The year-round temperatures of the proposed viticultural area are influenced by cool, moist air from the Pacific Ocean, which moderates daily temperatures and seasonal temperature variations. Data submitted with the petition shows an average of only 22 days per year with temperatures over 90 degrees Fahrenheit (F) within the proposed viticultural area and only a 25 degree difference in average temperature between the average warmest month and average coldest month. The moderate temperatures can be attributed, in part, to coastal fog. Although the Coastal Range blocks the heaviest of the marine fog from moving farther inland, some fog does enter the proposed viticultural area through a gap in the Coastal Range known as the Big River airflow corridor, located at the headwaters of the Big River near the peak known as Impassable Rocks. The fog then travels farther into the proposed viticultural area along stream beds and creeks, gradually dissipating as it moves east.

The steep upland terrain of the proposed viticultural area also plays a role in moderating temperatures. At night, cold air drains off the mountain slopes and into the lower elevations of the neighboring Ukiah Valley and Redwood Valley, resulting in warmer nighttime temperatures within the proposed viticultural area than in the valleys. Because the cold nighttime air drains off of the higher elevations, the fluctuations between daytime and nighttime temperatures (diurnal shifts) within the proposed viticultural area are moderate, averaging 20.6 degrees during the growing season. According to the petition, relatively constant temperatures during the ripening period with less fluctuation between day and night temperatures encourage the complete development of color, flavor, and aroma in grapes.

By contrast, the region to the west of the proposed Eagle Peak Mendocino County viticultural area is more exposed to the cool, moist air flowing inland from the Pacific Ocean. As a result, fog is heavier and longer lasting within this region than within the proposed viticultural area. The cool, moist, foggy climate to the west of the proposed viticultural area promotes the growth of fungus on grapes and inhibits ripening, as contrasted to the drier, warmer conditions of the proposed Eagle Peak Mendocino County viticultural area, which reduce the threat of fungus and provide better ripening conditions. Additionally, the heavier fog results in cooler year-round temperatures with smaller seasonal fluctuations than within the proposed viticultural area. The town of Fort Bragg, located on the Pacific coast, averages only an 8 degree difference in temperatures between the warmest and coldest months of the year, compared to the 25 degree difference for the proposed viticultural area.

The region north of the proposed Eagle Peak Mendocino County viticultural area is generally cooler and receives more snowfall annually. Frosts can occur in almost any month except July and August. Climate data obtained by TTB from the online Western Regional Climate Center database [1] shows that the town of Willits, north of the proposed viticultural area, has an average annual maximum temperature of only 69 degrees F and no months averaging highs over 90 degrees F. Because of its greater distance from both the Pacific coast and the Big River airflow corridor, Willits also experiences a larger difference in temperature between the warmest and coolest months than the proposed

[1] From *www.wrcc.dri.edu*. The period of record for this climate summary is 1902 through 2011.

viticultural area, with an average temperature difference of 31 degrees.

To the east and south of the proposed viticultural area, the Redwood and Ukiah Valleys are not as affected by the marine air as the proposed viticultural area. Although much of the fog and cool breezes that pass through the Big River airflow corridor dissipate the farther east they travel, some cool, moist air occasionally reaches the valleys, but not as often or in the same quantitative amount as within the proposed viticultural area. As a result, the temperatures in the Redwood and Ukiah valleys are significantly higher than in the proposed Eagle Peak Mendocino County viticultural area. Data submitted with the petition shows the number of days per year with temperatures over 90 degrees F averages 80 in the Ukiah Valley and 64 in the Redwood Valley, compared to an average of only 22 days per year with temperatures over 90 degrees F within the proposed viticultural area. The temperature difference between the coolest and warmest months is also greater within the inland valleys than within the proposed viticultural area, with the Ukiah Valley averaging a 55 degree difference. Finally, due to the cool air draining off the higher elevations at night, the valleys experience a greater fluctuation between daytime highs and nighttime lows than the proposed viticultural area. For example, daily temperature fluctuations within Redwood Valley average 33.7 degrees during the growing season, and fluctuations of more than 40 degrees are not uncommon.

Wind: The Big River airflow corridor also plays a role in the summer winds that are common throughout the proposed Eagle Peak Mendocino County viticultural area. During the summer, hot air rises from the Redwood, Potter, and Ukiah Valleys east and south of the proposed viticultural area, creating low pressure at ground level. The low pressure pulls cooler marine air from the Pacific Ocean through the Big River airflow corridor and into the proposed Eagle Peak Mendocino County viticultural area, resulting in frequent winds. The breezes dissipate as they move east. As a result, breezes are lighter and less frequent in the valleys to the east and south of the proposed viticultural area.

Wind speed measurements, taken in miles per hour (mph), were recorded at various times during the growing season in vineyards within the proposed Eagle Peak Mendocino County viticultural area and the neighboring Redwood Valley viticultural area, located to the east of the proposed viticultural area. The data in the table below was included with the petition.

WIND PATTERNS

2009	Proposed Eagle Peak Mendocino County viticultural area (Masut Vineyards)	Redwood Valley viticultural area (Elizabeth Vineyards)
June 18		
Average	7 mph	2 mph.
Gusts	15 mph	5 mph.
July 22		
Average	10 mph	5 mph.
Gusts	18 mph	8 mph.
August 14		
Average	5 mph	1 mph.
Gusts	8 mph	3 mph.
September 3		
Average	5 mph	0 mph.
Gusts	10 mph	2 mph.

The data in the table demonstrates that the proposed Eagle Peak Mendocino County viticultural area is significantly windier throughout the growing season than Redwood Valley, which is located at lower elevations to the east.

The winds in the proposed Eagle Peak Mendocino County viticultural area affect grape growing. According to the petitioner, the cool breezes lower the temperature, but are not so strong as to damage the vines or fruits. The breezes also lower humidity, reducing the development of grape rot. Furthermore, light breezes somewhat delay the ripening process by stimulating leaf pores to close, thereby reducing photosynthesis. The longer ripening process allows the flavor components to develop before the acid levels drop too low.

Geology

The proposed Eagle Peak Mendocino County viticultural area has two primary rock types: sandstone and shale. Sandstone is a marine sedimentary rock found in the coastal belt that includes some Franciscan Complex and early Tertiary micro-fossils of 65 to 1.5 million years old. Shale is older Franciscan Complex, from the Cretaceous and Jurassic periods, 65 to 195 million years ago. The Franciscan sediments are characterized by unstable rocks on steep terraces and slopes and soils with nickel and high magnesium levels and relatively shallow rooting depths of 4 to 40 inches.

To the immediate north and south of the proposed Eagle Peak Mendocino County viticultural area is a geological continuation of the Franciscan Complex. Farther north, the valleys near Willits contain Quaternary alluvium, as do Redwood and Ukiah Valleys to the east and southeast. Quaternary alluvium is between 1.5 million years to 11,000 years old, significantly younger than the rocks of the proposed Eagle Peak Mendocino County viticultural area. The alluvial sediments have rooting depths of 60 inches or more. To the west, southwest, and northwest of the proposed viticultural area is only sandstone, with no shale.

Growing wine grapes in the Franciscan formation soil of the proposed viticultural area requires special care due to the chemical elements in the rocks. Rocks in the formation contain nickel, which is toxic to grapes. High levels of magnesium, which are also found in the Franciscan formation, can affect the uptake of potassium, an element vital to good fruit production. However, the thin, rocky soil does lead to fewer leaves, resulting in naturally good canopy-light relations. Vines growing in the thicker alluvial soils of valleys to the north, east, and southeast produce more leaves and therefore require more specialized trellising and canopy management techniques to achieve good canopy-light relations.

Topography

The topography of the proposed Eagle Peak Mendocino County viticultural area includes an abundance of rolling-to-steep terrain, high elevations, and moderate-to-steep slope angles.

Elevations: Elevations vary from 800 to 3,320 feet within the proposed Eagle Peak Mendocino County viticultural area, according to the USGS maps. Prominent elevations include Eagle Peak at 2,699 feet, Irene Peak at 2,836 feet, and the 3,320-foot crest of Laughlin Ridge. High elevations occur throughout the proposed viticultural area, with the exception of the 800-foot elevations along its proposed eastern boundary where Forsythe and Seward Creeks flow into Redwood Valley and towards the Russian River. The high elevations within the proposed Eagle Peak Mendocino County viticultural area protect vineyards from frost during the spring and autumn because the cool air drains off the slopes at night and settles in the lower elevations of the valleys outside of the proposed viticultural area.

The elevations outside the proposed Eagle Peak Mendocino County viticultural area vary, but are generally lower than those within the proposed viticultural area. To the north of the proposed viticultural area, the Laughlin Range and Ridgewood summit slopes, which form the northern boundary of

the proposed viticultural area, gradually descend from a peak of 3,320 feet at the northeast corner of the proposed viticultural area to approximately 1,100 feet in Little Lake Valley around Willits, farther to the north. To the east of the proposed viticultural area, the Redwood Valley has lower elevations of between 508 and 800 feet. To the south of the proposed viticultural area are rolling hills with elevations between 1,863 and 2,571 feet, which gradually descend to the Ukiah Valley, with an elevation of approximately 700 feet. To the west of the proposed viticultural area, the terrain descends from approximately 2,000 feet to sea level at the Pacific coastline.

Slope Angle and Aspect: The proposed Eagle Peak Mendocino County viticultural area slopes are generally southerly-facing and moderately to very steep, with angles between 30 to 50 percent as calculated by the petitioner using USGS maps. The steep slopes encourage good air circulation, which prevents frosts and heavy fogs that can damage grapevines. Steep slopes also promote water drainage and prevent an excess of standing water, although the steepness creates a high erosion hazard that must be considered when planting vineyards. The southerly solar aspect of the slopes enables the soil to warm faster in the spring, promoting early vine growth. The warmer soil temperatures also encourage the production of cytokinin (plant hormones), which contributes to early grape ripening.

The Laughlin Range and Ridgewood Summit, with 30 to 50 percent slope angles, form the northern portion of the proposed boundary. However, as the terrain continues northward beyond the proposed viticultural area, it quickly changes from steep to mild slopes, with near-level angles in Little Lake Valley. In contrast to the southerly-facing slopes of the proposed viticultural area, the slopes in this northern region generally face north. Northerly-facing slopes are generally cooler and more susceptible to frost than southerly-facing slopes.

To the east, the Redwood Valley is nearly level, with slope angles of 2 to 8 percent. Cool air run-off from the steep mountainsides of the proposed viticultural area settles in the flatter terrain of the valley during spring and autumn nights, creating more of a frost threat in the valley than on the slopes. The valley terrain is less efficient at shedding excess water than the more steeply sloped terrain of the proposed viticultural area, but the gentler slope angles of the valley create less of an erosion hazard.

To the south is moderately-sloped rolling, hilly terrain that dips into the nearly-level Ukiah Valley. The hillsides are generally east-facing and are blocked from much of the marine-influenced breezes and moisture that travel from the west and penetrate the proposed viticultural area.

To the immediate west are moderate-to-steep slope angles, similar to the terrain within the proposed Eagle Peak Mendocino County viticultural area. However, these slopes generally face west and are more exposed to heavy fog and cool, wet air from the Pacific Ocean than the southerly-facing slopes of the proposed viticultural area. The higher elevations and steep slopes west of the proposed viticultural area gradually descend to low elevations and gentle slopes as the land meets the coastline of the Pacific Ocean.

Soils

The defining characteristics of soils within the proposed Eagle Peak Mendocino County viticultural area include profoundly low water-holding capacity, shallow rooting depths, and high erosion potential, due to the composition of the soil and the steep slopes. The soils are classified as upland under grass and oaks, or under forest (fog-influenced). Primary soil associations are the Yorkville-Yorktree-Squawrock and Ornbaun-Zeni-Yellowhound associations. The soils retain enough water to allow the vines to come out of dormancy in the spring and make it through the "grand growth stage" without irrigation, but irrigation is required for the rest of the growing season. TTB notes that the "grand growth stage" is a period of rapid growth that follows early shoot development and typically continues until just after fruit set.[2]

To the north and south of the proposed viticultural area, the soils are upland soils under forest, typically covered with a mat of conifer needles. These soils have a moderate water-holding capacity. To the east and southeast, the valley floors of the Redwood Valley and Mendocino viticultural areas have alluvial soils with high water-holding capacity. The alluvial soils are able to retain adequate moisture later into the growing season, unlike the soils in the proposed Eagle Peak Mendocino County viticultural area, making irrigation less necessary. Additionally, the alluvial soils have deeper rooting depths and are not as susceptible to erosion as soils of the proposed Eagle Peak Mendocino County viticultural area. To the west, the soil types vary in water-holding capacity from very low to high, depending on whether they are alluvial (moderate-to-high capacity) or greywacke, shale, sandstone, and siltstone (very-low-to-high capacity).

Comparisons of the Proposed Eagle Peak Mendocino County Viticultural Area to the Existing North Coast Viticultural Area

The North Coast viticultural area was established by T.D. ATF–145, which was published in the **Federal Register** on September 21, 1983 (48 FR 42973). It includes all or portions of Napa, Sonoma, Mendocino, Solano, Lake, and Marin Counties, California. TTB notes that the North Coast viticultural area contains all or portions of approximately 40 established viticultural areas, in addition to the area covered by the proposed Eagle Peak Mendocino County viticultural area. In the conclusion of the "Geographical Features" section of the preamble, T.D. ATF–145 states that "[d]ue to the enormous size of the North Coast, variations exist in climatic features such as temperature, rainfall, and fog intrusion."

The proposed Eagle Peak Mendocino County viticultural area shares the basic viticultural feature of the North Coast viticultural area: the marine influence that moderates growing season temperatures in the area. However, the proposed viticultural area is much more uniform in its geography, geology, climate, and soils than the diverse, multicounty North Coast viticultural area. In this regard, TTB notes that T.D. ATF–145 specifically states that "approval of this viticultural area does not preclude approval of additional areas, either wholly contained within the North Coast, or partially overlapping the North Coast," and that "smaller viticultural areas tend to be more uniform in their geographical and climatic characteristics, while very large areas such as the North Coast tend to exhibit generally similar characteristics, in this case the influence of maritime air off of the Pacific Ocean and San Pablo Bay." Thus, the proposal to establish the Eagle Peak Mendocino County viticultural area is not inconsistent with what was envisaged when the North Coast viticultural area was established.

Proposed Modification of the Mendocino and Redwood Valley Viticultural Areas

As previously noted, in addition to submitting a petition to establish the

[2] Hellman, E.W. "Grapevine Structure and Function." *Oregon Viticulture*. Ed. E.W. Hellman. Corvallis, Oregon: Oregon State University Press, 2003.

Eagle Peak Mendocino County viticultural area, the petitioner also submitted petitions to modify the boundaries of the established Mendocino and Redwood Valley viticultural areas. The Redwood Valley viticultural area is located entirely within the Mendocino viticultural area and shares the northern portion of its boundary with part of the northern boundary of the Mendocino viticultural area. The proposed Eagle Peak Mendocino County viticultural area is located to the west of both the Mendocino and Redwood Valley viticultural areas and as proposed would partially overlap portions of both viticultural areas. The proposed boundary modifications would reduce the sizes of the Mendocino and Redwood Valley viticultural areas by 1,900 acres and 1,430 acres, respectively, and would eliminate potential overlaps between the proposed viticultural area and the two existing viticultural areas.

According to the petitions, the modification would remove the steeper terrain of the proposed realignment area from the flatter, lower, valley-dominated elevations of the two existing viticultural areas and into the proposed Eagle Peak Mendocino County viticultural area, which is characterized by steeper upland terrain. The petition also notes that modifying the boundaries of the Mendocino and Redwood Valley viticultural areas would result in two vineyards, totaling 50 acres, being entirely within the proposed Eagle Peak Mendocino County viticultural area. Currently, both vineyards are split between the Mendocino and Redwood Valley viticultural areas.

Overview of the Mendocino Viticultural Area

The 327,437-acre Mendocino viticultural area was established by T.D. ATF–178, which was published in the **Federal Register** on June 15, 1984 (49 FR 24711). The Mendocino viticultural area is described as a mixture of upland and valley floor, with warmer winters and cooler summers than those found in the eastern interior area. T.D. ATF–178 also describes the Mendocino viticultural area as having a transitional climate, where the climate of the region varies from cool, moist, coastal-influenced conditions to warm, dry periods characteristic of regions farther inland. The average growing season is 268 days, with annual precipitation amounts averaging 39.42 inches.

The Mendocino viticultural area encompasses the agricultural areas of the southernmost third of Mendocino County. Mountain ridges surrounding the area define the upper limits of the Russian River and Navarro River drainage basins. The ridges, with peaks to 3,500 feet in elevation, provide a natural boundary for the climate of the Mendocino viticultural area. Most grapes grow at elevations between 250 and 1,100 feet, with some growth as high as 1,600 feet.

T.D. ATF–178 made no comparisons of the Mendocino viticultural area to the area identified in this proposed rule as the proposed Eagle Peak Mendocino County viticultural area.

Overview of the Redwood Valley Viticultural Area

The 32,047-acre Redwood Valley viticultural area was established by T.D. ATF–386, which was published in the **Federal Register** on December 23, 1996 (61 FR 67466). The primary feature of the viticultural area is a low-elevation, gently sloping valley floor. The boundary of the viticultural area roughly follows the watershed that forms the headwaters of the western fork of the Russian River, including Forsythe Creek, whose watershed is encompassed by the proposed Eagle Peak Mendocino County viticultural area. The southern end of Redwood Valley forms a narrow funnel shape near the small town of Calpella. The Russian River runs southward through the funnel and exits the Redwood Valley viticultural area as it flows to the Pacific Ocean.

The distinguishing features of the Redwood Valley viticultural area, as described in T.D. ATF–386, include climate, rainfall, and soils. The climate of the Redwood Valley viticultural area is cooler than the Ukiah Valley to the south, but warmer than the Anderson Valley viticultural area to the west. The climate is cool enough within the Redwood Valley viticultural area that harvest occurs later than in the Ukiah Valley, but still takes place earlier than in the Anderson Valley viticultural area. The Redwood Valley viticultural area averages 39.62 inches of precipitation annually, which is 22 percent more than in Ukiah Valley. Additionally, T.D. ATF–386 describes the Redwood Valley viticultural area as having the largest deposit of Redvine Series soil in the area, as well as large amounts of Pinole Gravelly Loam. T.D. ATF–386 made no comparisons of Redwood Valley to the area identified in this Notice as the proposed Eagle Peak Mendocino County viticultural area.

Comparison of Distinguishing Features Within the Proposed Realignment Areas to the Redwood Valley and Mendocino Viticultural Areas

TTB notes that the Mendocino viticultural area is shaped like an upright letter "V," and the Redwood Valley viticultural area lies entirely within the northwestern corner of the easternmost arm of the "V." The proposed Eagle Peak Mendocino County viticultural area sits to the west of the easternmost arm of the "V" and partially overlaps it as well as a portion of the Redwood Valley viticultural area. The petitions to establish the proposed Eagle Peak Mendocino County viticultural area and modify the boundaries of the Mendocino and Redwood Valley viticultural areas emphasize that the characteristics of the areas that will no longer be part of the Mendocino and Redwood Valley viticultural areas (hereinafter referred to as the realignment areas) are more similar to those of the proposed Eagle Peak Mendocino County viticultural area than those of the two existing viticultural areas.

The topography of the realignment areas is consistent with that of the high elevations and steep terrain of the proposed Eagle Peak Mendocino County viticultural area. The petitioner calculated the slope angles and elevations of the realignment areas and the Mendocino and Redwood Valley viticultural areas using USGS maps. The proposed realignment areas have moderate-to-steeply-sloped rugged terrain, 30 to 50 percent slope angles, and 800- to 2,500-foot elevations. By contrast, the region to the east of the realignment areas, farther within the Mendocino and Redwood Valley viticultural areas, is nearly level valley terrain with slopes between 2 and 8 percent and general elevations of 700 feet.

The realignment areas also have cooler climates than the rest of the Redwood Valley viticultural area and the neighboring eastern portion of the Mendocino viticultural area. The closest towns to the realignment areas that are located within the Mendocino and Redwood Valley viticultural areas are Ukiah and Redwood Valley, respectively. Data collected from the weather stations in these two towns shows the number of days per year with temperatures over 90 degrees F averages 80 in Ukiah and 64 in Redwood Valley. By contrast, data gathered from Masut Vineyards, within the proposed realignment area, averages only 34 days with temperatures above 90 degrees F, which is closer to the average of 22 days

per year for the entire proposed Eagle Peak Mendocino County viticultural area.

The cooler temperatures of the realignment areas and proposed viticultural area are partially due to the strong breezes that flow through the Big River airflow corridor. The northeastern portion of the Mendocino viticultural area and the Redwood Valley viticultural area, by contrast, do not have strong breezes, mostly due to their greater distances from the airflow corridor. Masut Vineyards, within the proposed realignment areas, averaged windspeeds of almost 7 miles per hour during the 2009 growing season, compared to an average of 2 miles per hour within Elizabeth Vineyards, in the Redwood Valley viticultural area. The difference between the recorded average windspeed for gusts is even greater, with an average gust speed of almost 13 miles per hour for Masut Vineyards, compared to 4.5 miles per hour for Elizabeth Vineyards. The petitioner did not provide windspeed data for any location within the Mendocino viticultural area.

The soils of the realignment areas are more similar to those of the proposed Eagle Peak Mendocino County viticultural area. As shown on the USDA Soil Survey map for eastern Mendocino County, the soil within the realignment area is primarily of the Yorktree-Yorkville-Squawrock association, similar to the majority of the soil within the proposed Eagle Peak Mendocino County viticultural area. By contrast, the soils in the neighboring portions of the Mendocino and Redwood Valley viticultural areas are primarily alluvial soils of the Hopland-Sanhedrin-Kekawaka and Pinole-Yokayo-Redvine associations. The rooting depths within the proposed realignment areas and the proposed Eagle Peak Mendocino County viticultural area are as low as 4 to 10 inches, while the valley areas within the existing viticultural areas to the east have 60 inches or more consistent rooting depth. The shallower upland soils have lower water-holding capacity than the deeper soils of the valley areas. Further, the thicker alluvial soils of the valleys are more vigorous than in the upland areas of the realignment area, meaning that different viticultural practices, such as canopy management techniques, are required in the valleys.

TTB Determination

TTB concludes that the petitions to establish the 22,266-acre "Eagle Peak Mendocino County" American viticultural area and to concurrently modify the boundaries of the existing Mendocino and Redwood Valley viticultural areas merit consideration and public comment, as invited in this document.

TTB is proposing the establishment of the new viticultural area and the modifications of the two existing viticultural areas as one action. Accordingly, if TTB establishes the proposed Eagle Peak Mendocino County viticultural area, then the proposed boundary modifications of the Mendocino and Redwood Valley viticultural areas would be approved concurrently. If TTB does not establish the proposed Eagle Peak Mendocino County viticultural area, then the present Mendocino and Redwood Valley viticultural area boundaries would not be modified as proposed in this document.

Boundary Description

See the narrative boundary descriptions of the petitioned-for viticultural area and the boundary modification of the two established viticultural areas in the proposed regulatory text published at the end of this document.

TTB notes that the boundary of the proposed Eagle Peak Mendocino County viticultural area and the related modifications to the Mendocino and Redwood Valley viticultural areas differ slightly from those outlined in the original petitions. With the petitioner's agreement, TTB made several small adjustments to the originally-proposed boundaries in order to use features found on all three map sets, since the Mendocino area's maps are of a different scale than those used for the other two areas. The petitioner also revised the proposed Eagle Peak Mendocino County boundary in order to eliminate the inclusion of some Redwood Valley floor land in the proposed viticultural area's southeastern corner.

Maps

The petitioner provided the required maps, and TTB lists them below in the proposed regulatory text.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. If TTB establishes this proposed viticultural area, its name, "Eagle Peak Mendocino County," would be recognized as a name of viticultural significance under 27 CFR 4.39(i)(3). The text of the proposed regulation clarifies this point.

TTB does not believe that "Eagle Peak," standing alone, would have viticultural significance in relation to this proposed viticultural area, due to the widespread use of "Eagle Peak" as a geographical name. GNIS shows the name "Eagle Peak" used in reference to 73 locations in 15 States. Furthermore, TTB notes that the terms "Mendocino" and "Mendocino County" are already established terms of viticultural significance. "Mendocino" refers to the established Mendocino viticultural area (27 CFR 9.93), while "Mendocino County" is a term of viticultural significance as a county appellation of origin under 27 CFR 4.39(i)(3), which states that a name has viticultural significance when it is the name of a county. Because the term "Mendocino" is already an established term of viticultural significance, TTB also does not believe that the phrase "Eagle Peak Mendocino," standing alone, would have viticultural significance with regards to this proposed viticultural area. Therefore, the proposed part 9 regulatory text set forth in this document specifies only "Eagle Peak Mendocino County" as a term of viticultural significance for purposes of part 4 of the TTB regulations.

If this proposed regulatory text is adopted as a final rule, wine bottlers using "Eagle Peak Mendocino County" in a brand name, including a trademark, or in another label reference as to the origin of the wine, would have to ensure that the product is eligible to use the viticultural area's full name "Eagle Peak Mendocino County" as an appellation of origin. If approved, the establishment of the proposed Eagle Peak Mendocino County viticultural area and the proposed modifications of the Mendocino and Redwood Valley viticultural area boundaries would allow vintners to use "Eagle Peak Mendocino County," "Mendocino County," or "North Coast" as appellations of origin for wines made from grapes grown within the Eagle Peak Mendocino County viticultural area, if the wines meet the eligibility requirements for the appellation.

Use of "Mendocino County" and "North Coast" as Appellations of Origin

If TTB approves establishment of the proposed Eagle Peak Mendocino County viticultural area and the proposed modifications of the boundaries of Mendocino and Redwood Valley viticultural areas, any bottlers using "Mendocino County" as an appellation of origin or in a brand name for wines made from grapes grown within Mendocino County would not be affected. Additionally, neither the establishment of the proposed Eagle Peak Mendocino County viticultural area nor approval of the proposed

boundary modifications would affect any bottlers using "North Coast" as an appellation of origin or in a brand name for wines made from grapes grown within the North Coast viticultural area.

Use of "Mendocino" as an Appellation of Origin

If the proposed Eagle Peak Mendocino County viticultural area and the corresponding modification of the Mendocino viticultural area boundary are approved, bottlers currently using "Mendocino" standing alone as an appellation of origin for wine produced primarily from grapes grown in the areas removed from the Mendocino viticultural area would no longer be able to use "Mendocino" standing alone as an appellation of origin. Bottlers currently using "Mendocino" in a brand name for wine produced primarily from grapes grown in the areas removed from the Mendocino viticultural area would also no longer be able to use the term "Mendocino" in the brand name, but could use the terms "Mendocino County" or "Eagle Peak Mendocino County" in the brand name if otherwise eligible. See the "Transition Period" section of this document for more details.

Bottlers currently using "Mendocino" as an appellation of origin or in a brand name for wine produced from grapes grown within the current, and if modified, Mendocino viticultural area would still be eligible to use the term as an appellation of origin or in a brand name.

Use of "Redwood Valley" as an Appellation of Origin

If the proposed Eagle Peak Mendocino County viticultural area and the corresponding modification of the Redwood Valley viticultural area boundary are approved, bottlers currently using "Redwood Valley" as an appellation of origin or in a brand name for wine produced primarily from grapes grown in the areas removed from the Redwood Valley viticultural area would no longer be able to use "Redwood Valley" as an appellation of origin or in a brand name. See the "Transition Period" section of this document for more details.

Bottlers currently using "Redwood Valley" as an appellation of origin or in a brand name for wine produced from grapes grown within the current, and if modified, Redwood Valley viticultural area would still be eligible to use the term as an appellation of origin or in a brand name.

Transition Period

If the proposals to establish the Eagle Peak Mendocino County viticultural area and to modify the boundaries of the Mendocino and Redwood Valley viticultural areas are adopted as a final rule, a transition rule will apply to labels for wines produced from grapes grown in the area removed from the Mendocino and Redwood Valley viticultural areas. A label containing the words "Mendocino" (other than in the phrase "Mendocino County" or "Eagle Peak Mendocino County") or "Redwood Valley" in the brand name or as an appellation of origin may be used on wine bottled within two years from the effective date of the final rule, provided that such label was approved prior to the effective date of the final rule and that the wine conforms to the standards for use of the label set forth in 27 CFR 4.25 or 4.39(i) in effect prior to the final rule. At the end of this two-year transition period, if a wine is no longer eligible for labeling with the "Mendocino" or "Redwood Valley" viticultural area names (*e.g.*, it is primarily produced from grapes grown in the areas removed from the Mendocino and Redwood Valley viticultural areas), then a label containing the words "Mendocino" (other than in the phrase "Mendocino County" or "Eagle Peak Mendocino County") or "Redwood Valley" in the brand name or as an appellation of origin would not be permitted on the bottle. TTB believes that the two-year period should provide affected label holders with adequate time to use up any existing labels. This transition period is described in the proposed regulatory text for the Mendocino and Redwood Valley viticultural areas published at the end of this notice.

TTB notes that wine eligible for labeling with the "Mendocino" or "Redwood Valley" viticultural area names under the proposed new boundary of the Mendocino and Redwood Valley viticultural areas will not be affected by this two-year transition period. Furthermore, if TTB does not approve the proposed boundary modifications, then all wine label holders currently eligible to use the "Mendocino" and "Redwood Valley" viticultural area names would be allowed to continue to use their labels as originally approved.

Public Participation

Comments Invited

TTB invites comments from interested members of the public on whether TTB should establish the proposed Eagle Peak Mendocino County viticultural area and concurrently modify the boundaries of the established Mendocino and Redwood Valley viticultural areas. TTB is interested in receiving comments on the sufficiency and accuracy of the name, boundary, climate, geology, topography, soils, and other required information submitted in support of the Eagle Peak Mendocino County viticultural area petition. In addition, given the proposed Eagle Peak Mendocino County viticultural area's location within the existing North Coast viticultural area, TTB is interested in comments on whether the evidence submitted in the petition regarding the distinguishing features of the proposed viticultural area sufficiently differentiates it from the existing North Coast viticultural area. TTB is also interested in comments on whether the geographic features of the proposed viticultural area are so distinguishable from the North Coast viticultural area that the proposed Eagle Peak Mendocino County viticultural area should no longer be part of the North Coast viticultural area. Please provide any available specific information in support of your comments.

TTB also invites comments on the proposed modifications of the existing Mendocino and Redwood Valley viticultural areas. TTB is especially interested in comments on whether the evidence provided sufficiently differentiates the realignment areas from the existing Mendocino and Redwood Valley viticultural areas. Comments should address the name usage, boundaries, climate, topography, soils, and any other pertinent information that supports or opposes the proposed boundary modifications.

Because of the potential impact of the establishment of the proposed Eagle Peak Mendocino County viticultural area on wine labels that include the terms "Eagle Peak Mendocino County," "Redwood Valley," or "Mendocino" as discussed above under Impact on Current Wine Labels, TTB is particularly interested in comments regarding whether there will be a conflict between the proposed area name and currently used brand names. If a commenter believes that a conflict will arise, the comment should describe the nature of that conflict, including any anticipated negative economic impact that approval of the proposed viticultural area will have on an existing viticultural enterprise. TTB is also interested in receiving suggestions for ways to avoid conflicts, for example, by adopting a modified or different name for the viticultural area.

Clarification of Redwood Valley's Southern Boundary

In addition, TTB is proposing to clarify the description of a way point along the Redwood Valley viticultural area's southern boundary. Currently, the viticultural area's southern boundary includes a way point described as "the intersection of State Highway 20 and U.S. 101 * * *" (see § 9.153(c)(8)). Since this intersection is shown on the Ukiah map as a large highway interchange with various on- and off-ramps between the two highways, TTB wishes to clarify this way point as "the intersection of State Highway 20 and a road known locally as North State Street (old U.S. Highway 101), north of Calpella * * *." TTB believes this clarification does not relocate the viticultural area's southern boundary as currently understood. However, TTB requests comments from any Redwood Valley vintner who believes this proposed change may affect their ability to use the Redwood Valley viticultural area as an appellation of origin.

Submitting Comments

You may submit comments on this proposal by using one of the following three methods:

- *Federal e-Rulemaking Portal:* You may send comments via the online comment form posted with this document within Docket No. TTB–2013–0004 on "Regulations.gov," the Federal e-rulemaking portal, at *http://www.regulations.gov*. A direct link to that docket is available under Notice No. 135 on the TTB Web site at *http://www.ttb.gov/wine/wine-rulemaking.shtml*. Supplemental files may be attached to comments submitted via Regulations.gov. For complete instructions on how to use Regulations.gov, visit the site and click on the "Help" tab at the top of the page.
- *U.S. Mail:* You may send comments via postal mail to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005.
- *Hand Delivery/Courier:* You may hand-carry your comments or have them hand-carried to the Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Suite 200E, Washington, DC 20005.

Please submit your comments by the closing date shown above in this document. Your comments must reference Notice No. 135 and include your name and mailing address. Your comments also must be made in English, be legible, and be written in language acceptable for public disclosure. We do not acknowledge receipt of comments, and we consider all comments as originals.

Your comment must clearly state if you are commenting on your own behalf or on behalf of an organization, business, or other entity. If you are commenting on behalf of an organization, business, or other entity, your comment must include the entity's name as well as your name and position title. If you comment via Regulations.gov, please enter the entity's name in the "Organization" blank of the online comment form. If you comment via postal mail, please submit your entity's comment on letterhead.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

Confidentiality

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

Public Disclosure

TTB will post, and you may view, copies of this document, selected supporting materials, and any online or mailed comments received about this proposal within Docket No. TTB–2013–0004 on the Federal e-rulemaking portal, Regulations.gov, at *http://www.regulations.gov*. A direct link to that docket is available on the TTB Web site at *http://www.ttb.gov/wine/wine-rulemaking.shtml* under Notice No. 135. You may also reach the relevant docket through the Regulations.gov search page at *http://www.regulations.gov*. For instructions on how to use Regulations.gov, visit the site and click on the "Help" tab at the top of the page.

All posted comments will display the commenter's name, organization (if any), city, and State, and, in the case of mailed comments, all address information, including email addresses. TTB may omit voluminous attachments or material that it considers unsuitable for posting.

You also may view copies of this document, all related petitions, maps and other supporting materials, and any electronic or mailed comments we receive about this proposal by appointment at the TTB Information Resource Center, 1310 G Street NW., Washington, DC 20005. You may also obtain copies at 20 cents per 8.5- x 11-inch page. Contact our information specialist at the above address or by telephone at 202–453–2270 to schedule an appointment or to request copies of comments or other materials.

Regulatory Flexibility Act

TTB certifies that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

This proposed rule is not a significant regulatory action as defined by Executive Order 12866. Therefore, it requires no regulatory assessment.

Drafting Information

Karen A. Thornton of the Regulations and Rulings Division drafted this document.

List of Subjects in 27 CFR Part 9

Wine.

Proposed Regulatory Amendment

For the reasons discussed in the preamble, we propose to amend title 27, chapter I, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

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

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

■ 2. Amend § 9.93 by revising paragraph (c)(7), redesignating paragraphs (c)(8) through (19) as paragraphs (c)(16) through (27), and adding new paragraphs (c)(8) through (15), and adding paragraph (d) to read as follows:

§ 9.93 Mendocino.

* * * * *

(c) * * *

(7) Thence due west along the T.18N./T.17N. common line until the common line intersects with the R.13W./R.12W. common line;

(8) Thence in a straight line in a south-southwesterly direction, crossing onto the Willits map, to the intersection of the 1,600-foot contour line and Baker Creek (within McGee Canyon) along the west boundary line of Section 25, T.17N./R.13W.;

(9) Thence in a southeasterly direction (downstream) along Bakers Creek to where the creek intersects with the 1,400-foot contour line in Section 25, T.17N/R.13W.;

(10) Thence in a straight line in a southeasterly direction to the southeast corner of Section 36, T.17N./R.13W.;

(11) Thence in a straight line in a west-southwesterly direction to the intersection of U.S. Highway 101 and an unnamed road known locally as Reeves Canyon Road in Section 1, T.16N./R.13W.;

(12) Thence in a straight line in a southeasterly direction to the southeast corner of Section 1, T.16N./R.13W.;

(13) Thence in a straight line in a south-southwesterly direction to the intersection of an unnamed, unimproved road and an unnamed, intermittent stream, approximately 500 feet south of Seward Creek, in section 12, T.16N./R.13W.;

(14) Thence in a straight line in a west-southwesterly direction to the southwest corner of Section 12, T.16N./R.13W.;

(15) Thence in a straight line in a southwesterly direction to the southwest corner of Section 14, T.16N./R.13W.;

* * * * *

(d) *Transition period.* A label containing the word "Mendocino" in the brand name (other than in the phrase "Mendocino County" or "Eagle Peak Mendocino County") or as an appellation of origin approved prior to [*EFFECTIVE DATE OF THE FINAL RULE*] may be used on wine bottled before [*DATE 2 YEARS FROM EFFECTIVE DATE OF THE FINAL RULE*] if the wine conforms to the standards for use of the label set forth in § 4.25 or § 4.39(i) of this chapter in effect prior to [*EFFECTIVE DATE OF THE FINAL RULE*].

■ 3. Amend § 9.153 by revising paragraphs (c)(1) through (9) and adding paragraphs (c)(10) through (12) and (d) to read as follows:

§ 9.153 Redwood Valley.

* * * * *

(c) * * *

(1) The beginning point is in the northeastern portion of the Ukiah map at the point where State Highway 20 crosses the R11W/R12W range line along the south bank of the East Fork of the Russian River, T16N/R12W. From the beginning point, proceed north along the R11W/R12W range line, crossing onto the Redwood Valley map, to the northeast corner of section 1, T16N/R12W; then

(2) Proceed west along the northern boundary of section 1 to the section's northwest corner, T16N/R12W; then

(3) Proceed north along the eastern boundary lines of sections 35, 26, 23, 14, 11, and 2 to the T17N/T18N common boundary line at the northeast corner of section 2, T17N/R12W; then

(4) Proceed west along the T17N/T18N common line to the northwest corner of section 6, T17N/R12W; then

(5) Proceed south-southwesterly in a straight line, crossing onto the Laughlin Range map, to the intersection of the 1,400-foot contour line and Bakers Creek within McGee Canyon, section 25, T17N/R13W; then

(6) Proceed southeasterly in a straight line approximately 1.5 miles, crossing onto the Redwood Valley map, to the southeast corner of section 36, T17N/R13W; then

(7) Proceed west-southwesterly in a straight line approximately 0.55 mile, crossing onto the Laughlin Range map, to the intersection of U.S. Highway 101 and an unnamed road known locally as Reeves Canyon Road, section 1, T16N/R13W; then

(8) Proceed southeasterly in a straight line approximately 0.9 mile, crossing onto the Redwood Valley map, to the southeast corner of section 1, T16N/R13W; then

(9) Proceed south-southwesterly in a straight line approximately 0.65 mile to the intersection of an unnamed, unimproved road and an unnamed, intermittent stream, approximately 500 feet south of Seward Creek, section 12, T16N/R13W; then

(10) Proceed west-southwesterly in a straight line approximately 0.9 mile, crossing onto the Laughlin Range map, to the southwest corner of section 12, T16N/R13W; then

(11) Proceed east-southeasterly in a straight line, crossing onto the far northeastern corner of the Orrs Springs map, then continuing onto the Ukiah map, to the intersection of State Highway 20 and a road known locally as North State Street (old U.S. Highway 101), north of Calpella, T16N/R12W; then

(12) Proceed easterly along State Highway 20, returning to the beginning point.

(d) *Transition period.* A label containing the words "Redwood Valley" in the brand name or as an appellation of origin approved prior to [*EFFECTIVE DATE OF THE FINAL RULE*] may be used on wine bottled before [*DATE 2 YEARS FROM EFFECTIVE DATE OF THE FINAL RULE*] if the wine conforms to the standards for use of the label set forth in § 4.25 or § 4.39(i) of this chapter in effect prior to [*EFFECTIVE DATE OF THE FINAL RULE*].

■ 4. Add § 9.____ to read as follows:

§ 9. Eagle Peak Mendocino County.

(a) *Name.* The name of the viticultural area described in this section is "Eagle Peak Mendocino County". For purposes of part 4 of this chapter, "Eagle Peak Mendocino County" is a term of viticultural significance.

(b) *Approved maps.* The four United States Geographical Survey (USGS) 1:24,000 scale topographic maps used to determine the boundary of the Eagle Peak Mendocino County viticultural area are titled:

(1) Laughlin Range, California, provisional edition 1991;

(2) Redwood Valley, Calif., 1960, photo revised 1975;

(3) Orrs Springs, California, provisional edition 1991; and

(4) Greenough Ridge, California, provisional edition 1991.

(c) *Boundary.* The Eagle Peak Mendocino County viticultural area is located in Mendocino County, California. The boundary of the Eagle Peak Mendocino County viticultural area is as follows:

(1) The beginning point is located on the Laughlin Range map within McGee Canyon at the point where the 1,600-foot contour line intersects with Bakers Creek near the western boundary of section 25, T17N/R13W. From the beginning point, proceed southeasterly (downstream) approximately 0.2 mile along Bakers Creek to the creek's intersection with the 1,400-foot contour line, section 25, T17N/R13W; then

(2) Proceed southeasterly in a straight line approximately 1.5 miles, crossing onto the Redwood Valley map, to the southeast corner of section 36, T17N/R13W; then

(3) Proceed west-southwesterly in a straight line approximately 0.55 mile, crossing onto the Laughlin Range map, to the intersection of U.S. Highway 101 and an unnamed road locally known as Reeves Canyon Road, section 1, T16N/R13W; then

(4) Proceed southeasterly in a straight line approximately 0.9 mile, crossing onto the Redwood Valley map, to the southeast corner of section 1, T16N/R13W; then

(5) Proceed south-southwesterly in a straight line approximately 0.65 mile to the intersection of an unnamed, unimproved road and an unnamed intermittent stream located approximately 500 feet south of Seward Creek, section 12, T16N/R13W; then

(6) Proceed west-southwesterly in a straight line approximately 0.9 mile, crossing onto the Laughlin Ridge map,

to the southwest corner of section 12, T16N/R13W; then

(7) Proceed west-southwesterly in a straight line approximately 0.8 mile, crossing onto the Orrs Springs map, to the 1,883-foot elevation point in section 14, T16N/R13W; then

(8) Proceed west-southwesterly in a series of three straight lines (totaling approximately 3.15 miles in distance), first to the 1,836-foot elevation point in section 15, T16N/R13W; then to the 1,805-foot elevation point in section 16, T16N/R13W; and then to the 2,251-foot elevation point in section 20, T16W/R13W; then

(9) Proceed south-southwesterly in a straight line approximately 0.8 mile to the 2,562-foot elevation point, section 20, T16N/R13W; then

(10) Proceed north-northwesterly in a straight line approximately 0.8 mile to the 2,218-foot elevation point, section 19, T16N/R13W; then

(11) Proceed northeasterly in a straight line approximately 0.35 mile to the 2,112-foot elevation point in the southeast corner of section 18, T16N/R13W; then

(12) Proceed north-northeasterly in a straight line approximately 0.9 mile to the 2,344-foot elevation point, section 17, T16N/R13W; then

(13) Proceed northwesterly in a straight line approximately 1.8 miles, crossing onto the Laughlin Range map, to the intersection of the R13W/R14W common boundary line and an unnamed, unimproved road east of Leonard Lake, section 1, T16N/R14W; then

(14) Proceed west-northwesterly along the unnamed, unimproved road to the road's intersection with the 2,000 foot contour line between Leonard Lake and Mud Lake, section 1, T16N/R13W; then

(15) Proceed north-northwesterly in a straight line approximately 1.6 miles, crossing onto the Greenough Ridge map, to the 2,246-foot elevation point, section 26, T17N/R14W; then

(16) Proceed northerly in a straight line approximately 0.9 mile to the 2,214-foot elevation point, section 23, T17N/R14W; then

(17) Proceed northeasterly in a straight line approximately 1 mile, crossing onto the Laughlin Range map, to the peak of Impassable Rocks, section 24, T17N/R14W; then

(18) Proceed northwesterly in a straight line approximately 0.95 mile, crossing onto the Greenough Ridge map, to the 2,617-foot elevation point, section 14, T17N/R14W, and continue northwesterly in a straight line approximately 0.8 mile to the 2,836-foot elevation point of Irene Peak, section 11, T17N/R14W; then

(19) Proceed northerly in a straight line approximately 1 mile to the intersection of 3 unnamed unimproved roads approximately 0.3 mile west of the headwaters of Walker Creek (locally known as the intersection of Blackhawk Drive, Walker Lake Road, and Williams Ranch Road) section 2, T17N/R14W; then

(20) Proceed easterly along the unnamed improved road, locally known as Blackhawk Drive, approximately 1.35 miles, crossing onto the Laughlin range map, to the road's intersection with the section 2 eastern boundary line, T17N/R14W; then

(21) Proceed east-northeasterly in a straight line approximately 0.75 mile, returning to the 2,213 elevation point near the northeast corner of section 1, T17N/R14W; then

(22) Proceed southeasterly in a straight line approximately 3.55 miles to BM 1893 (0.2 mile south of Ridge) in section 16, T17N/R13W, and then continue southeasterly in a straight line approximately 0.85 mile to a radio facility located at approximately 2,840 feet in elevation in the Laughlin Range, section 15, T17N/R13W; then

(23) Proceed easterly in a straight line approximately 0.85 mile to another radio facility located at approximately 3,320 feet in elevation in the Laughlin Range, section 14, T17N/R13W; then

(24) Proceed southerly in a straight line approximately 1.5 miles to the 2,452-foot elevation point in section 26, T17N/R13W; then

(25) Proceed southeasterly in a straight line approximately 0.4 mile to the intersection of the 1,800-foot contour line with Bakers Creek within McGee Canyon, section 26, T17N/R13W; then

(26) Proceed southeasterly (downstream) approximately 0.2 mile along Bakers Creek, returning to the beginning point.

Dated: June 18, 2013.

John J. Manfreda,

Administrator.

[FR Doc. 2013–15247 Filed 6–26–13; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Parts 19, 20, 21, 27, and 28

[Docket No. TTB–2013–0005; Notice No. 136]

RIN 1513–AB03

Reclassification of Specially Denatured Spirits and Completely Denatured Alcohol Formulas and Related Amendments

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking; solicitation of comments.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) proposes to amend its regulations concerning denatured alcohol and products made with industrial alcohol. The proposed amendments would eliminate outdated specially denatured spirits formulas from the regulations, reclassify some specially denatured spirits formulas as completely denatured alcohol formulas, and issue some new general-use formulas for manufacturing products with specially denatured spirits. The proposed amendments would remove unnecessary regulatory burdens on the industrial alcohol industry as well as TTB, and would align the regulations with current industry practice. The proposed amendments would also make other needed improvements and clarifications, as well as a number of minor technical changes and corrections to the regulations. TTB invites comments on these proposed amendments to the regulations.

DATES: TTB must receive your written comments on or before August 26, 2013.

ADDRESSES: You may send comments on this document to one of the following addresses:

- *http://www.regulations.gov:* To submit comments via the Internet, use the comment form for this document as posted within Docket No. TTB–2013–0005 at "Regulations.gov," the Federal e-rulemaking portal;
- *Mail:* Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005.
- *Hand Delivery/Courier in Lieu of Mail:* Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Suite 200–E, Washington, DC 20005.

See the Public Participation section of this document for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

You may view copies of this document, selected supporting materials, and any comments TTB receives about this proposal within Docket No. TTB–2013–0005 at *http://www.regulations.gov*. A link to this Regulations.gov docket is posted on the TTB Web site at *http://www.ttb.gov/regulations_laws/all_rulemaking.shtml* under Notice No. 136. You also may view copies of this document, all supporting materials, and any comments TTB receives about this proposal by appointment at the TTB Information Resource Center, 1310 G Street NW., Washington, DC 20005. Please call 202–453–2270 to make an appointment.

FOR FURTHER INFORMATION CONTACT: Karen Welch of the Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, at 202–453–1039, extension 046, or *IndustrialAlcoholRegs@ttb.gov*.

SUPPLEMENTARY INFORMATION:

Authority and Background

Internal Revenue Code

Chapter 51 of the Internal Revenue Code of 1986 (IRC), 26 U.S.C. chapter 51, contains excise tax and related provisions concerning distilled spirits used for both beverage and nonbeverage purposes. The IRC imposes an excise tax rate of $13.50 per proof gallon on distilled spirits (26 U.S.C. 5001). Under section 5006(a) of the IRC (26 U.S.C. 5006(a)) the excise tax on distilled spirits is generally determined at the time the distilled spirits are withdrawn from the bonded premises of a distilled spirits plant.

However, section 5214(a) of the IRC authorizes, subject to regulations prescribed by the Secretary of the Treasury, the following two types of spirits to be withdrawn free of tax:

- Spirits that have been "denatured" by the addition of materials that make the spirits unfit for beverage consumption; and
- Undenatured spirits for certain governmental, educational, medical, or research purposes.

Section 5214(a)(1) of the IRC permits the withdrawal of denatured spirits free of tax for:

- Exportation;
- Use in the manufacture of a definite chemical substance, where such distilled spirits are changed into some other chemical substance and do not appear in the finished product; or
- Any other use in the arts or industry, or for fuel, light, or power, except that, under 26 U.S.C. 5273(b), denatured spirits may not be used in the manufacture of medicines or flavors for internal human use where any of the spirits remain in the finished product, and, under section 5273(d), denatured spirits may not be withdrawn or sold for beverage purposes.

The IRC authorizes the Secretary of the Treasury to prescribe regulations regarding the production, warehousing, denaturing, distribution, sale, export, and use of industrial alcohol in order to protect the revenue (26 U.S.C. 5201), and to regulate materials that are suitable to denature distilled spirits (26 U.S.C. 5241 and 5242). Section 5242 states that denaturing materials shall be such as to render the spirits with which they are admixed unfit for beverage or internal medicinal use and that the character and quantity of denaturing materials used shall be as prescribed by the Secretary by regulations. Furthermore, section 5273(a) of the IRC requires that any person using specially denatured spirits (which is defined in the following section of this document) to manufacture products:

> * * * shall file such formulas and statements of process, submit such samples, and comply with such other requirements, as the Secretary shall by regulations prescribe, and no person shall use specially denatured distilled spirits in the manufacture or production of any article until approval of the article, formula, and process has been obtained from the Secretary.[1]

Regulation of Denatured Spirits

The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers Chapter 51 of the IRC pursuant to section 111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120–01 (Revised), dated January 21, 2003, to the TTB Administrator to perform the functions and duties in the administration and enforcement of this law.

Regulations pertaining specifically to denatured spirits are found in 27 CFR part 20 (Distribution and use of denatured alcohol and rum) and part 21 (Formulas for denatured alcohol and rum). Certain provisions in TTB's regulations in 27 CFR part 19 (Distilled spirits plants), part 27 (Importation of distilled spirits, wines, and beer), and part 28 (Exportation of alcohol) also concern denatured spirits. Denatured spirits are spirits to which denaturants—which are materials that make alcoholic mixtures unfit for beverage or internal human medicinal use—have been added in accordance with 27 CFR part 21. TTB approves denaturants if the denaturants: (1) Make the spirits unfit for beverage or internal human medicinal use (26 U.S.C. 5242 and 27 CFR 21.11), (2) are adequate to protect the Federal excise tax revenue (27 CFR 21.91), and (3) are suitable for the intended use of the denatured spirits (26 U.S.C. 5242).[2]

There are two types of denatured spirits: completely denatured alcohol (C.D.A.) and specially denatured spirits (referred to as "S.D.S." for purposes of this preamble). C.D.A. jeopardizes the revenue less than S.D.S. does—first, C.D.A. is more offensive to the taste than S.D.S. and thus C.D.A. is less likely to be used for beverage purposes, and second, it is more difficult to separate potable alcohol from C.D.A. than it is from S.D.S. For these reasons, the withdrawal and use of C.D.A. are subject to less stringent regulatory oversight than are the withdrawal and use of S.D.S.

Title 27 CFR 20.41 provides that permits are required to withdraw, deal in, or use S.D.S. The regulations also require that dealers and users of S.D.S. maintain specified records and retain invoices (see 27 CFR 20.262 through 20.268). Under § 20.264(b), users of S.D.S. are required to submit an annual report to TTB, and, under § 20.262(d), a dealer, as defined in 27 CFR 20.11, when requested by TTB, must submit a required accounting of each formulation of new and recovered S.D.S. In contrast, under 27 CFR 20.141, no permits are required to use or distribute C.D.A. (with the exception of recovery for reuse). A person that receives, packages, stores, disposes of, or uses C.D.A. is required to maintain records only when specifically requested by TTB (see 27 CFR 20.261). The regulations do not provide any reporting requirements for persons that use or deal in C.D.A.

The regulations prescribe formulas for C.D.A. and for S.D.S. C.D.A. generally may be sold and used for any purpose (§ 20.141), with the exception that C.D.A. denatured in accordance with Formula No. 20 is restricted to fuel use (27 CFR 21.24). In contrast, S.D.S.,

[1] Other sections of the IRC relating to denatured spirits set forth requirements pertaining to the taxation and manufacture of distilled spirits, the withdrawal of distilled spirits free of tax or without payment of tax, the importation and exportation of distilled spirits, the issuance of permits for industrial alcohol users and dealers, the sale and use of industrial alcohol, and the recovery of potable alcohol from industrial alcohol (see 26 U.S.C. 5002 through 5008, 5061, 5062, 5101, 5111, 5112, 5131, 5132, 5181, 5204, 5214, 5232, 5235, 5271, 5273, and 5313).

[2] In most cases, spirits used for industrial purposes are "alcohol," which in this context means a type of spirits distilled at more than 160 degrees of proof and substantially neutral in character, lacking the taste, aroma, and other characteristics generally attributed to whisky, brandy, rum, or gin. (27 CFR 19.487(a)(1).)

which is generally used as a raw material or ingredient in the manufacture of other products (termed "articles"), may not be used for any purpose not specifically authorized in the regulations. The authorized purposes are categorized within "use codes," which are published in the regulations in 27 CFR part 21.

Manufacture of Articles With Denatured Spirits

Both C.D.A. and S.D.S. may be used to manufacture articles, which are defined in section 5002(a)(14) of the IRC (26 U.S.C. 5002(a)(14)) as "any substance in the manufacture of which denatured distilled spirits are used." The manufacture of articles with C.D.A. is generally unregulated. By contrast, the manufacture of articles with S.D.S. is strictly regulated under 27 CFR part 20, in accordance with sections 5271 through 5275 of the IRC (26 U.S.C. 5271–5275). A significant aspect of this regulation is the requirement for prior TTB approval of all articles made with S.D.S. Such approval is mandated by law in section 5273(a) of the IRC (26 U.S.C. 5273(a)), which states, ". . . no person shall use specially denatured distilled spirits in the manufacture or production of any article until approval of the article, formula, and process has been obtained from the Secretary."

TTB approval of articles takes two forms. First, TTB approves specific, proprietary formulas and processes for articles, submitted by manufacturers on TTB Form 5150.19. Second, "general-use formulas," which TTB generally approves by publishing them in the regulations in 27 CFR part 20, are approved formulas for articles. General-use formulas may be used by any manufacturer that has a TTB permit to use S.D.S. in the manufacture of articles. Each general-use formula authorizes the production of only a specific type of article. Under § 20.111, manufacturers of articles produced pursuant to general-use formulas are not required to obtain specific formula approval from TTB on TTB Form 5150.19. Thus, the regulatory burden is lighter on manufacturers producing articles pursuant to general-use formulas than on manufacturers producing articles pursuant to other formulas that prescribe S.D.S. (In fiscal year 2011, TTB received 1,593 formula applications on TTB Form 5150.19.)

Updating of Industrial Alcohol Regulations

In this document, TTB proposes changes to the industrial alcohol regulations found in 27 CFR parts 19, 20, 21, 27, and 28. The proposed changes would reduce regulatory burdens on the industrial alcohol industry as well as TTB, update the regulations to align them with current industry practice, and clarify other regulatory provisions.

Terminology

TTB is providing the following definitions to assist in comprehension of this proposed rulemaking:

- *Rum* is any spirit produced from sugar cane products and distilled at less than 190 proof in such manner that the spirit possesses the taste, aroma, and characteristics generally attributed to rum.
- A *formula* is an instruction for manufacturing a product, and is analogous to a recipe that a cook follows. This document refers to two broad types of formulas: Denatured alcohol formulas and article formulas. Denatured alcohol formulas specify the instructions for producing either S.D.S (as specified in 27 CFR part 21 subpart D) or C.D.A. (as specified in 27 CFR part 21 subpart C). Article formulas include both formulas approved individually by TTB on TTB Form 5150.19 and general-use formulas (as specified in 27 CFR 20.112 through 20.119).
- A *formulation* is a physical product manufactured in accordance with a formula, and is analogous to a cooked meal that has been prepared, using a recipe. The word "formulation" can refer to S.D.S., C.D.A., or an article.
- *Specially Denatured Spirits (S.D.S.)* are specially denatured alcohol (S.D.A.) and/or specially denatured rum (S.D.R.). Only a registered distilled spirits plant may produce S.D.S. TTB and industry generally refer to formulations of S.D.S. by the formula number. For example, a formulation produced in accordance with S.D.A. Formula No. 40–B is simply referred to as "S.D.A. 40–B." To reflect the common parlance, this same shorthand is used throughout this document.
- *Specially Denatured Alcohol (S.D.A)* is alcohol that has been denatured following a formula specified in subpart D of 27 CFR part 21. A formulation of S.D.A. may be used only for the uses specified for the corresponding formula in 27 CFR part 21.
- *Specially Denatured Rum (S.D.R.)* is rum that has been denatured following the formula specified in subpart D of 27 CFR part 21. S.D.R. may be used only for the uses specified for that formula in 27 CFR part 21. (There is currently only one formula for S.D.R.)
- *Completely Denatured Alcohol (C.D.A.)* is alcohol that has been denatured under a formula specified in subpart C of 27 CFR part 21. Only a registered distilled spirits plant may produce C.D.A. TTB and industry generally refer to formulations of C.D.A. by the formula number. For example, a formulation produced in accordance with C.D.A. Formula No. 20 is simply referred to as "C.D.A. 20." To reflect the common parlance, this same shorthand is used throughout this document.
- An *article* is any substance or preparation manufactured using denatured spirits.
- A *general-use formula* is a formula for making a certain type of article that is prescribed by 27 CFR 20.112 through 20.119, approved by TTB as an alternate method, or published as a TTB ruling. Specific formula approval by TTB on Form 5150.19 is not required for an article made pursuant to a general-use formula.

Business Process Reengineering Study

As part of TTB's effort to reduce regulatory burdens, TTB commissioned a Business Process Reengineering (BPR) study to streamline the approval process for articles made with S.D.S. The BPR study involved a review of the S.D.S. formulas in 27 CFR part 21 with the goal of achieving significantly less regulatory burden without threat to the revenue. The BPR study also examined whether any S.D.S. formulas are no longer in use, and thus can be deleted.

TTB proposes to adopt the following BPR recommendations:

- To remove from the regulations 16 S.D.A. formulas that are no longer in use;
- To reclassify two S.D.A. formulas as C.D.A. formulas;
- To issue a general-use formula for any appropriate articles made with any of 15 S.D.A. formulations—14 S.D.A. formulations identified in the BPR study and S.D.A. No. 35–A, which was identified by TTB as being appropriate for the general-use formula; and
- To issue three general-use formulas subject to specified conditions.

These proposed changes to the regulations are discussed below.

Review of Other Regulations Relating to the Manufacture, Use, and Distribution of S.D.A., C.D.A., and Articles

In addition to commissioning the BPR study, TTB reviewed past formula approvals and industry member requests to determine if it would be appropriate to create any other new general-use formulas or revise any existing general-use formulas. As a result of this review, TTB determined that it would be appropriate to create an additional new general-use formula for duplicating fluids and ink solvents, and to authorize one additional denaturant

for the existing general-use formula for proprietary solvents. These changes are discussed in detail below. TTB also reviewed the denaturants authorized in part 21 to ascertain whether their use is consistent with other Federal regulations. As a result of this review, TTB decided to remove one denaturant, benzene, from the regulations in part 21. Its removal is discussed in detail below.

TTB also reviewed the related regulations in 27 CFR parts 19, 20, 27, and 28 and found references to a number of out-dated processes. Consequently, TTB is proposing to change the regulations in 27 CFR parts 19, 20, 27, and 28 relating to the following subjects:

- Destruction of S.D.S. or recovered alcohol;
- Adoption of formulas by parent or subsidiary corporations;
- Bay rum, alcoholado, or alcoholado-type toilet waters for export;
- Reagent alcohol for manufacturing;
- Labeling of articles;
- Exportation of S.D.S. by dealers; and
- Articles for export.

In addition to the above changes, TTB is proposing to make clarifying and technical changes to the regulations relating to:

- Records of article manufacture;
- Part 20 definitions;
- Developmental samples of articles;
- General-use formulas;
- General-use formulas for tobacco flavors and inks;
- Use of the word "formulation" instead of the word "formula;"
- Low alcohol general-use formula;
- Articles for internal human use;
- Registration of persons trafficking in articles;
- Shipment for the account of another dealer;
- Incomplete shipments of S.D.S.—use of the term "proprietor;"
- Permittee's Records and Reports;
- Authorization of substitute denaturants in part 21;
- Incorporation of authorized substitute denaturants;
- Industry Circular 75–6, Importation of Ethyl Alcohol for Industrial Purposes; and
- Certain miscellaneous non-substantive technical or editorial matters.

Proposed Substantive Changes

Removal of Certain S.D.A. Formulas

TTB is proposing to remove the 16 S.D.A. formulas in part 21 that do not appear to be in use. Those 16 formulas and the denaturants prescribed for each formula are identified in the table below:

Section No.	S.D.A. formula No.	Denaturant(s) per 100 gallons of alcohol of not less than 185 proof
21.34	2–C	33 pounds or more of metallic sodium and either ½ gallon of benzene, ½ gallon of toluene, or ½ gallon of rubber hydrocarbon solvent.
21.36	3–B	1 gallon of pine tar, U.S.P.
21.39	6–B	½ gallon of pyridine bases.
21.42	17	0.05 gallon (6.4 fl. oz.) of bone oil (Dipple's oil).
21.45	20	5 gallons of chloroform.
21.46	22	10 gallons of formaldehyde solution, U.S.P.
21.48	23–F	3 pounds of salicylic acid, U.S.P., 1 pound of resorcinol (resorcin), U.S.P., and 1 gallon of bergamot oil; N.F. XI, or bay oil (myrcia oil), N.F. XI.
21.52	27	1 gallon of rosemary oil, N.F. XII, and 30 pounds of camphor, U.S.P.
21.53	27–A	35 pounds of camphor, U.S.P., and 1 gallon of clove oil, N.F.
21.54	27–B	1 gallon of lavender oil, N.F., and 100 pounds of green soap, U.S.P.
21.60	33	30 pounds of gentian violet or gentian violet, U.S.P.
21.66	38–C	10 pounds of menthol, U.S.P., and 1.25 gallons of formaldehyde solution, U.S.P.
21.69	39	9 pounds of sodium salicylate, U.S.P., or salicylic acid, U.S.P.; 1.25 gallons of fluid extract of quassia, N.F. VII; and ⅛ gallon of *tert*-butyl alcohol.
21.70	39–A	60 avoirdupois ounces of any one of the following alkaloids or salts together with ⅛ gallon of *tert*-butyl alcohol: quinine, N.F. X.; quinine bisulfate, N.F. XI.; quinine dihydrochloride, N.F. XI.; cinchonidine; cinchonidine sulfate, N.F. IX.
21.78	42	(1) 80 grams of potassium iodide, U.S.P., and 109 grams of red mercuric iodide, N.F. XI; or (2) 95 grams of thimerosal, U.S.P.; or (3) 76 grams of any of the following: phenyl mercuric nitrate, N.F.; phenyl mercuric chloride, N.F. IX; or phenyl mercuric benzoate.
21.81	46	25 fluid ounces of phenol, U.S.P., and 4 fluid ounces of methyl salicylate, N.F.

Some of the formulas that TTB is proposing to remove from the regulations prescribe denaturants that are not mentioned in other formulas; therefore, TTB is proposing to remove the following denaturants from the table in 27 CFR 21.151, which sets forth a list of denaturants authorized for use in denatured spirits:

- Bone oil (Dipple's oil);
- Chloroform;
- Cinchonidine;
- Cinchonidine sulfate, N.F. IX;
- Gentian violet;
- Gentian violet, U.S.P.;
- Mercuric iodide, red, N.F. XI.;
- Pine tar, U.S.P.;
- Phenyl mercuric benzoate;
- Phenyl mercuric chloride, N.F. IX.;
- Phenyl mercuric nitrate, N.F.;
- Pyridine bases;
- Quassia, fluid extract, N.F. VII;
- Quinine, N.F. X;
- Quinine dihydrochloride, N.F. XI;
- Resorcinol (Resorcin), U.S.P.;
- Salicylic acid, U.S.P.;
- Sodium (metallic); and
- Thimerosal, U.S.P.

TTB also proposes to remove the following regulations that provide specifications for some of these denaturants, because the specifications would no longer be needed. Those regulations are 27 CFR 21.98 (Bone oil (Dipple's oil)), 21.103 (Chloroform), 21.104 (Cinchonidine), 21.111 (Gentian violet), 21.121 (Phenyl mercuric benzoate), 21.122 (Pyridine bases), and 21.128 (Sodium (metallic)).

In addition, TTB proposes to remove the references to each of the 16 S.D.A. formulas from the chart in 27 CFR 21.141, which lists products and processes for which specially denatured alcohol and rum are specified. TTB also proposes to remove the reference to "Antiseptic, bathing solution (restricted)" from the chart in § 21.141. because the only S.D.A. formula specified for that product is Formula No. 46, which is being removed from the regulations.

Finally, in 27 CFR 21.161, TTB proposes to remove the entry for each of the 16 S.D.A. formulas from the chart.

which lists the weights and specific gravities of specially denatured alcohol.

Reclassification of Certain S.D.A. Formulas as C.D.A. Formulas

As noted above, TTB has identified two S.D.A. formulas that TTB could reclassify as C.D.A. formulas, because it would be very difficult to separate the denaturant from the alcohol in the resulting formulation. S.D.A. Formula No. 12–A, found in 27 CFR 21.40, currently specifies 5 gallons of benzene or toluene per 100 gallons of alcohol of not less than 185 proof. S.D.A. Formula No. 35, found in § 21.61, specifies 29.75 gallons of ethyl acetate having an ester content of 100 percent by weight or the equivalent thereof not to exceed 35 gallons of ethyl acetate with an ester content of not less than 85 percent by weight per 100 gallons of alcohol of not less than 185 proof. These two formulas prescribe denaturants that form azeotropes—liquid mixtures that have constant minimum or maximum boiling points that are lower or higher than that of any of their components, and that distill without a change in composition—with ethanol in the resulting formulations. Thus, it would be more difficult to separate the ethanol from the denaturants by distillation and simple manipulation compared to other S.D.S. formulations. Therefore, TTB proposes to reclassify these two S.D.A. formulas as C.D.A. formulas by removing §§ 21.40 and 21.61 and by adding new 27 CFR 21.21a and 21.25 respectively. In addition, TTB proposes to remove the references to these two S.D.A. formulas from the charts in §§ 21.141 and 21.161.

General-Use Formula for Articles Made With Certain S.D.A. Formulations

As was explained earlier in this document, general-use formulas are provided in 27 CFR Part 20 for the production of certain types of articles. Manufacturers of articles produced in accordance with general-use formulas are not required to obtain specific formula approval from TTB on Form 5150.19.

As stated above, TTB has determined that it would be appropriate to issue a new general-use formula for any appropriate articles made with one or more of 15 S.D.A. formulations—the 14 S.D.A. formulations identified in the BPR study and S.D.A. 35–A, which TTB identified as being appropriate for the general-use formula. It would be difficult to separate the alcohol from the articles produced using one or more of those 15 S.D.A. formulations, and, thus, revenue would not be jeopardized. The 15 S.D.A. formula numbers and their denaturant specifications are as follows:

S.D.A. formula No.	Denaturant(s) per 100 gallons of alcohol of not less than 185 proof
1	4 gallons of methyl alcohol and either 1/8 avoirdupois ounces of denatonium benzoate; 1 gallon of methyl isobutyl ketone; 1 gallon of mixed isomers of nitropropane, or 1 gallon of methyl *n*-butyl ketone.
3–A	5 gallons of methyl alcohol.
13–A	10 gallons of ethyl ether.
19	100 gallons of ethyl ether.
23–A	8 gallons of acetone, U.S.P.
23–H	8 gallons of acetone, U.S.P., and 1.5 gallon of methyl isobutyl ketone.
30	10 gallons of methyl alcohol.
32	5 gallons of ethyl ether.
35–A	4.25 gallons of ethyl acetate having an ester content of 100% by weight or the equivalent thereof not to exceed 5 gallons of ethyl acetate with an ester content of not less than 85% by weight.
36	3 gallons of ammonia, aqueous, 27 to 30% by weight; 3 gallons of strong ammonium solution, N.F.; 17.5 pounds of caustic soda, liquid grade, containing 50% by weight sodium hydroxide; or 12 pounds of caustic soda, containing 73% by weight sodium hydroxide.
37	45 fluid ounces of eucalyptol, N.F. XII, 30 avoirdupois ounces of thymol, N.F., and 20 avoirdupois ounces of menthol, U.S.P.
38–D	2.5 pounds of menthol, U.S.P., and 2.5 gallons of formaldehyde solution, U.S.P.
40	1/8 gallon of *tert*-butyl alcohol and 1.5 avoirdupois ounces of either (1) brucine alkaloid, (2) brucine sulfate, N.F. IX, (3) quassin, or (4) any combination of 2 of the 3.
40–A	1 lb of sucrose octaacetate and 1/8 gallon of *tert*-butyl alcohol.
40–B	1/16 avoirdupois ounces of denatonium benzoate, N.F., and 1/8 gallon of *tert*-butyl alcohol.

TTB is proposing to add a new 27 CFR 20.120 setting forth a general-use formula covering articles made with any of those 15 S.D.A. formulations. This general-use formula will cover any article made with any of the S.D.A. formulations specified in the new § 20.120, provided that the article conforms to one of the use codes authorized for the S.D.A. formulation being used. (Articles produced under this general-use formula made with more than one S.D.A. formulation must conform to a use code that is authorized for all S.D.A. formulations being used.) Use codes are identified in section (b) of each section of subpart D of part 21. Use Code 900 ("Specialized uses (unclassified)") is not allowed under this general-use formula because it is a "catch-all" for all uses not otherwise specified. TTB will still consider for approval on TTB Form 5150.19 formulas for articles that are intended to be used for specialized unclassified uses under Use Code 900.

The proposed § 20.120 also requires that the finished article made following this general-use formula contain sufficient additional ingredients to definitely change the composition and character of the original S.D.A. used to make the article. The additional ingredients change the character of the S.D.A., so that when the article is sold on the retail level, it is substantially different from S.D.A. This requirement is necessary to comply with the law, because an article that is essentially similar to S.D.S. should not be sold to the general public; 26 U.S.C. 5271(a) requires a permit for anyone procuring S.D.S. This requirement would be similar to the current requirement for special industrial solvents found in 27 CFR 20.112(b), and is necessary to ensure that the resulting articles are unfit for beverage or internal human use and are not capable of being reclaimed or diverted to beverage or internal human use.

General-Use Formulas, With Conditions, for Certain Articles Made With S.D.A. Formulas

As discussed above, TTB has identified three S.D.A. formulations that

may be used as ingredients, subject to certain conditions, in certain general-use formulas. Accordingly, in new 27 CFR 20.121, TTB proposes to allow the use of S.D.A. 18 (specified in 27 CFR 21.43) in a vinegar general-use formula. In addition, in new 27 CFR 20.122, TTB proposes to allow the use of S.D.A. 39–C (specified in 27 CFR 21.72) in a general-use formula. Finally, in new 27 CFR 20.123, TTB proposes to provide for the use of S.D.A. 40–C (specified in 27 CFR 21.77) in a pressurized container general-use formula. Only the uses that are currently approved for the corresponding S.D.A. formula in part 21 would be allowed under each of these three new general-use formulas. The chart below states, with respect to each new general-use formula: Its proposed new section number, the number of the S.D.A. formula prescribed for it, the denaturants contained in that S.D.A., and the proposed condition.

Proposed new section	S.D.A. formula No.	Denaturant(s) per 100 gallons of alcohol of not less than 185 proof	Condition
20.121	18	100 gallons of vinegar not less than 90-grain strength or 150 gallons of vinegar of not less than 60-grain strength.	Must be used in a process to make vinegar whereby either all the ethyl alcohol loses its identity or only residual ethyl alcohol within the limit specified in § 20.104 remains.
20.122	39–C	1 gallon of diethyl phthalate	Each gallon of finished product must contain not less than 2 fl. oz. of perfume material (essential oils as defined in § 21.11, isolates, aromatic chemicals, etc.).
20.123	40–C	3 gallons of *tert*-butyl alcohol	This formula may only be used in the manufacture of products which will be packaged in pressurized containers in which the liquid contents are in intimate contact with the propellant and from which the contents are not easily removable in liquid form.

The condition that articles made with S.D.A. 39–C contain in each gallon of finished product at least two fluid ounces of perfume material (including essential oils, isolates, and aromatic chemicals) currently appears in the regulations at 27 CFR 20.103. Because this condition will appear in the general-use formula specified in the new § 20.122, and because the new general-use formula covers all articles made with S.D.A. 39–C, the condition is no longer needed in § 20.103. Accordingly, TTB proposes to remove § 20.103 from the regulations.

General-Use Formula for Duplicating Fluids and Ink Solvents

TTB has approved approximately 570 article formulas specifically for duplicating fluids and ink solvents, most of which specify S.D.A. 3–C, but some of which specify S.D.A. 1 and S.D.A. 3–A. Duplicating fluids and ink solvents are articles made of denatured alcohol combined with other ingredients, and are intended only for use in the printing industry. To eliminate the need for specific article formula approval from TTB, TTB proposes to create a general-use formula for duplicating fluids and ink solvents specifying S.D.A. 1, 3–A, and 3–C in new 27 CFR 20.124.

Specification of S.D.A. 3–C in the Proprietary Solvents General-Use Formula

TTB has approved numerous requests from industry members to use S.D.A. 3–C formulations to make proprietary solvents under the general-use formula in § 20.113(a). Section 20.113(a) currently allows the use of S.D.A. 1 or 3–A in the proprietary solvents general-use formula. TTB is proposing to amend § 20.113(a) to also allow for the use of S.D.A. 3–C in making proprietary solvents.

Removal of Benzene From the Regulations

Upon review, TTB determined that benzene should be removed from the S.D.A. and C.D.A. formulas. Benzene is currently prescribed by S.D.A. Formula Nos. 2–B, 2–C, and 12–A. The U.S. Environmental Protection Agency (EPA) in its regulations has designated benzene as a hazardous air pollutant under the Clean Air Act (40 CFR 61.01(a)), and EPA regulations limit the amount of benzene that may be used in gasoline (40 CFR part 80). As was discussed above, TTB is already proposing to remove S.D.A. Formula No. 2–C from the regulations, and to reclassify S.D.A. Formula No. 12–A as a C.D.A. formula. Accordingly, TTB is proposing to remove benzene as a denaturant prescribed in S.D.A. Formula No. 2–B by amending 27 CFR 21.33, and to exclude benzene from the denaturants prescribed by the new C.D.A. Formula No. 12–A in proposed § 21.21a. TTB notes that other authorized denaturants may contain small quantities of benzene. For example, benzene is allowed, up to a maximum of 1.1 percent by volume, in two newly authorized denaturants: high octane denaturant blend and straight run gasoline (see discussion on *Incorporation of Authorized Substitute Denaturants*, below). Under EPA regulations, importers and refiners of gasoline must ensure that their gasoline complies with certain benzene limits. (See 40 CFR 80.1230(a) and (b).) To the extent that TTB-permitted manufacturers of denatured alcohol or fuel alcohol made with these authorized denaturants are subject to these EPA regulations, they must comply with them.

TTB is also proposing to remove benzene from the list of authorized denaturants in § 21.151.

Destruction of S.D.S. or Recovered Alcohol

Under 27 CFR part 20, when a permittee destroys S.D.S. or recovered alcohol, the permittee's liability for payment of the Federal excise tax on the alcohol is terminated (27 CFR 20.221), but the permittee must prepare a record of the destruction (27 CFR 20.222).

If recovered material meets the specifications of an article formula approved by TTB on TTB Form 5150.19, the recovered material may be transferred for destruction to nonpermittees. If recovered material is not sufficiently denatured to be treated as an article, the material is treated as S.D.S., which by law (26 U.S.C. 5271(a)(2)) may only be procured by a permittee. To destroy the material without transferring it to a permittee, the manufacturer could add denaturants or similar chemicals to the recovered S.D.S. to make the material into an article meeting the specifications of an article formula approved by TTB on

TTB Form 5150.19 that could then be transferred to a nonpermittee.

To clarify the regulations relating to these matters, TTB proposes to add a new paragraph to 20.222, titled "Destruction by nonpermittees." The new paragraph will state that destruction of recovered material that is not sufficiently denatured to meet the formula specifications of an article must be done by the original manufacturer, a distilled spirits plant, or a facility that possesses an S.D.S. dealer's permit.

Adoption of Formulas by Parent or Subsidiary Corporations

Currently, TTB's regulations allow a permittee to adopt only its predecessor's formulas. In order to increase operating flexibility for domestic manufacturers, TTB proposes to amend 27 CFR 20.63 to allow any permittee to adopt, for use at any of its plants, any formula previously approved for use at another of its plants, or any formula previously approved for its parent or wholly-owned subsidiary. TTB also proposes to remove the requirements that the certificate of adoption must contain a TTB Laboratory sample number (unnecessary in this context) and the TTB Form 5150.19 serial number (which is no longer used).

Bay Rum, Alcoholado, or Alcoholado-Type Toilet Waters for Export

Currently, under 27 CFR 20.102, bay rum, alcoholado, and alcoholado-type toilet waters must contain the materials specified in that section. However, TTB has approved alternate methods and procedures under § 20.22 to allow industry members to make these products without adding the materials specified in § 20.102 if the products were intended only for export. Accordingly, TTB is proposing to amend § 20.102 to except bay rum, alcoholado, and alcoholado-type toilet waters produced under an approved formula and endorsed "For Export Only" from the requirement that they be produced from the materials specified in that section. TTB is also proposing to change the unit of measurement in § 20.102 from "grains," which is outdated, to metric units. Finally, the change also replaces the reference to "Bitrex (THS 839)," which is a registered trade name, with the generic term "denatonium benzoate."

Reagent Alcohol for Manufacturing

"Reagent alcohol" is an approved article only if distributed for scientific use at a laboratory (27 CFR 20.117(d)). Therefore, reagent alcohol not so distributed is not an approved article but remains in the category of S.D.A., which by law may not be used in the manufacture or production of an article prior to the issuance of both a permit (26 U.S.C. 5271) and a formula approval (26 U.S.C. 5273(a)).

TTB believes that the current regulations on reagent alcohol should be less restrictive. Consequently, TTB proposes to add to § 20.117 a new paragraph (e) that would allow permittees who have a legitimate use for reagent alcohol in manufacturing to receive it for that purpose, but only from distilled spirits plants and S.D.S. user or dealer permittees. To ensure that such use is appropriate, TTB will still require an approved formula for a permittee to receive and use reagent alcohol in manufacturing even if the product being manufactured conforms to a general-use formula. Further, when used in this manner, reagent alcohol must be treated as S.D.A., not as an article. TTB also proposes to amend § 20.117(a) to provide for treatment of reagent alcohol as S.D.A. when distributed for use in manufacturing. Finally, TTB proposes some additional non-substantive organizational and wording changes in § 20.117 to improve its clarity and readability.

Labeling of Articles

TTB is proposing to amend 27 CFR 20.134 to allow containers of articles to either (1) bear a label or (2) have the required information etched or printed directly on the containers, since the technology now exists to etch or print information directly on containers. TTB is proposing this change to allow for greater flexibility in labeling articles.

Exportation of S.D.S. by Dealers

The IRC at 26 U.S.C. 5214(a)(1) allows for the withdrawal of S.D.S. free of tax for exportation and does not prohibit such exportation of S.D.S. by dealers. However, the current regulations do not provide for the exportation of S.D.S. by dealers, but they do allow for the exportation of S.D.S. by distilled spirits plants.

TTB believes that the exportation of S.D.S. by dealers who hold a TTB permit generally will not represent a significant threat to the revenue. Accordingly, TTB proposes to amend the regulations by adding a new 27 CFR 20.183 which would allow for the exportation of S.D.S. by dealers provided that the S.D.S. conforms to a formula specified in part 21 of the TTB regulations, that the exportation is to a country the laws of which allow the importation of such spirits, and that the dealer notifies TTB of the exportation. TTB will appropriately modify TTB Form 5100.11, Withdrawal of Spirits, Specially Denatured Spirits, or Wines for Exportation, to incorporate this change. The proposed regulatory text excludes S.D.S. 3–C, 29, and 38–B because these formulations are more susceptible to being rendered fit for beverage use. TTB is also proposing to add a new 27 CFR 28.157 in TTB's regulations on exports, which will provide a cross-reference to the new provision in part 20.

Articles for Export

TTB, and previously ATF, have approved alternate methods or procedures for industry members to produce articles for export where the article could not be approved for domestic distribution because it is not sufficiently denatured to preclude any recovery of potable alcohol. TTB's regulations allow for the export of S.D.S., so TTB is proposing to add new § 20.193 (27 CFR 20.193) to also allow for the export of articles that would not be approved for domestic distribution. This new provision is not expected to create any significant jeopardy to the revenue, and will allow businesses to export such products to foreign countries.

Clarifying and Technical Changes

Records of Article Manufacture

Distilled spirits plant proprietors who manufacture articles are required by 27 CFR 19.607 to keep certain records. The records required to be kept pursuant to § 19.607 generally parallel those required to be kept by 27 CFR part 20, but do not include records of ingredients used. A record of ingredients used is essential to verify compliance with approved formulas. Therefore, TTB proposes to amend § 19.607 by cross referencing in it the requirements of 27 CFR part 20.

Part 20 Definitions

Currently, § 20.11 does not include definitions for "TTB," "Fit for beverage use, or fit for beverage purposes," "Internal human use," or "Unfit for beverage use, or unfit for beverage purposes." TTB is proposing to add definitions of these terms to this section. TTB is also proposing to amend 27 CFR 20.111(c), 20.114(a), 20.115(a), 20.133(b) and 20.189(d), to use the defined terms "fit for beverage use," "fit for beverage purposes," "unfit for beverage use," or "unfit for beverage purposes" to help clarify those regulatory sections.

Developmental Samples of Articles

For clarity, TTB is proposing to revise 27 CFR 20.95 (Developmental samples of articles). The revised text provides that the user may only use the limited quantity of S.D.S. that is necessary to

produce the samples. The current regulation provides that "limited quantities" may be used. The text further clarifies that only one sample of each formulation of the article under development may be sent to each prospective customer and that these samples may be produced without prior formula approval.

General-Use Formulas

TTB is proposing to revise § 20.111 to reflect the issuance of new general-use formulas as proposed in this document, update the information on how to locate TTB publications, and clarify when a statement of process is required. Additionally, the changes would clarify that articles made under a general-use formula must meet the same standards as other articles; that is, the articles must be unfit for beverage use and incapable of being reclaimed or diverted to beverage use or internal human use.

General-Use Formulas for Tobacco Flavors and Inks

TTB is proposing to amend §§ 20.114 and 20.115 to clarify that articles produced under the tobacco flavor general-use formula and the ink general-use formula must contain ingredients that are sufficient to ensure that the articles are unfit for beverage use.

Use of the Word "Formulation" Instead of the Word "Formula"

TTB is proposing to amend 20.119, 20.136, 20.141, 20.170, 20.189, 20.262, 20.263, and 20.264 to correct several inconsistent uses of the word "formula." The word "formula" is to be used to refer to a prescription of the ingredients ("recipe") to be used to produce S.D.S., C.D.A., or an article. The word "formulation" is to be used to refer to the physical S.D.S., C.D.A., or article produced in accordance with a formula.

Low Alcohol General-Use Formula

TTB is proposing to clarify in § 20.116 that articles made under the low alcohol general-use formula must be covered by a statement of process as provided in 27 CFR 20.94 even if the articles do not contain alcohol or the articles' manufacture includes the recovery of C.D.A. or S.D.S. (Examples of low-alcohol articles are hair mousses and some household detergents.) Additionally, TTB is proposing to clarify in § 20.116 that the alcohol content of the finished article can be measured by either weight or by volume, because when the alcohol content is as low as 5 percent, there is no significant difference between the two types of measurements for TTB's purposes.

Articles for Internal Human Use

The regulations in part 20 require that, if denatured spirits are used in the production of a medicinal preparation or flavoring extract which is for internal human use, none of the spirits may remain in the finished product (27 CFR 20.132(a)). TTB proposes to add a definition for "Internal human use" to § 20.11 to clarify that this term does not apply to use only in the mouth, when the product is not intended to be swallowed. Thus, the prohibition on the use of S.D.S. in articles made for internal human use would not apply to mouthwashes, toothpastes, breath sprays, and other articles that are used in the mouth but that are not intended to be swallowed.

Registration of Persons Trafficking in Articles

TTB is proposing to clarify in § 20.133, which allows TTB to require the registration of persons trafficking in articles, that finished articles must not be reclaimed or diverted to beverage use or internal human use. This requirement is also imposed on S.D.S. users and manufacturers of articles in § 20.189(d).

Shipment for the Account of Another Dealer

In 27 CFR 20.175(c), TTB is proposing to clarify that persons shipping S.D.S. are not liable for the tax on the spirits, except as provided in 26 U.S.C. 5001(a)(4) and (5). The proposed change makes § 20.175(c) consistent with the law.

Incomplete Shipments of S.D.S.—Use of the Term "Proprietor"

TTB is proposing to clarify in 27 CFR 20.204(c) that the "dealer or proprietor" refers to the "shipper," which is either a dealer or distilled spirits plant proprietor.

Permittee's Records and Reports

TTB is proposing to add new paragraph (a)(4) to § 20.264, which cross-references the recordkeeping requirement of § 20.193(b)(4), to make it easier for an individual reading the regulations to know what is required.

Authorization of Use of Substitute Denaturants in Part 21

Under 27 CFR 21.91, TTB may authorize the use of substitute denaturants if valid reasons exist and if such use will not jeopardize the revenue. TTB has authorized the use of several such substitute denaturants in TTB Rulings that are publicly available. TTB is proposing to add language to § 21.91 to clarify that TTB may authorize the use of a substitute denaturant in a TTB Ruling.

Incorporation of Authorized Substitute Denaturants

TTB and its predecessor agency, ATF, have approved, under § 21.91, the use of substitute denaturants for use in making S.D.A. 2–B, 3–A, 12–A, 36, 38–B, and 38–F and C.D.A. 20. TTB has also approved, under § 19.746, the use of new materials that can be used to render alcohol unfit for beverage use for the purposes of making fuel alcohol. In addition, TTB recently approved, under § 20.111, the use of a new prescribed ingredient in the special industrial solvent general-use formula set forth in § 20.112.

TTB and its predecessor agency, ATF, published the approvals as ATF Rulings 74–1, 85–15, and 86–3, and as TTB Rulings 2008–2, 2010–1, 2010–5, and 2010–6. (Some, but not all of the materials authorized in TTB Ruling 2010–6 were added to § 19.746 in the recent rulemaking on part 19; see T.D. TTB–92, 76 FR 9080, February 16, 2011.) These rulings are effective and are available on TTB's Web site at *http://www.ttb.gov*. Rulemaking is not required for the approvals to be effective. However, for completeness, TTB is adding those denaturants and materials to the regulatory sections that prescribe the materials for fuel alcohol, or the denaturants for S.D.A. Formula Nos. 2–B, 3–A, 12–A, 36, 38–B, and 38–F, and C.D.A. Formula No. 20.

Accordingly, TTB is: (1) Revising 27 CFR 19.746, 20.112, 21.24, 21.33, 21.35, 21.63, 21.65, and 21.68 to add the recently approved denaturants to the formulas (TTB is removing and reserving § 21.40 for Formula No. 12–A, but see new § 21.21a for C.D.A. Formula No. 12–A with approved denaturants); (2) adding new sections 27 CFR 21.94a, 21.105a, 21.105b, 21.106a, 21.108a, 21.112a, 21.112b, 21.112c, 21.115a, 21.115b, 21.118a, 21.118b, 21.118c, 21.121a, 21.124a, and 21.130a, and revising 27 CFR 21.121, to add the specifications for those approved denaturants; and (3) revising the chart listing authorized denaturants in § 21.151 to incorporate the new denaturants. In addition, TTB is revising the specification for toluene in 27 CFR 21.132 so that it is consistent with the updated toluene specification that was included in TTB Ruling 2010–6.

Industry Circular 75–6, Importation of Ethyl Alcohol for Industrial Purposes

The mere addition of denaturants to alcohol does not cause the product to

lose its character as a distilled spirit. There is no provision in law for the withdrawal of distilled spirits from customs custody free of tax, other than for the use of the United States in accordance with 27 CFR part 27, subpart M. Therefore, imported denatured spirits and imported products that are essentially similar to denatured spirits are subject to the internal revenue tax and associated provisions of the IRC. It should be noted, however, that the internal revenue tax does not apply to imported products that contain alcohol but are unfit for beverage use and have lost their character as distilled spirits.

TTB's predecessor, ATF, published Industry Circular 75–6 on March 28, 1975 to advise that denatured alcohol is subject to tax upon importation, although payment of the tax may be avoided by transferring the denatured alcohol from customs custody to the bonded premises of a distilled spirits plant, as provided in 26 U.S.C. 5232. As stated in the circular, "[T]he addition of denaturants to ethyl alcohol prior to importation does not free the resultant mixture from the application of the internal revenue tax imposed by 26 U.S.C. 5001(a) or from the provisions of 26 U.S.C. 5232 in regard to receipt, storage, and disposition of distilled spirits when such material is released from customs custody."

Current regulations do not clearly state the rules regarding the importation of denatured spirits. To remedy this situation, TTB proposes to add a new § 27.222 (27 CFR 27.222) to incorporate the statement in Industry Circular 75–6 that imported denatured spirits or fuel alcohol may be transferred in bond to a distilled spirits plant without payment of tax and later withdrawn from the distilled spirits plant free of tax in accordance with 27 CFR part 19. In addition, TTB proposes to add new § 19.412 (27 CFR 19.412) to provide a cross-reference in part 19 to § 27.222 to alert industry members to that section. Section 19.742 (27 CFR 19.742) already provides for the importation of fuel alcohol by an alcohol fuel plant proprietor.

Miscellaneous Technical Changes

- Control numbers for information collection requests issued by the Office and Management and Budget have been updated in §§ 20.11, 20.63, 20.95, 20.111, 20.117, 20.133, 20.134, 20.222, and 20.264 to reflect the change from ATF to TTB.
- In 27 CFR 20.41, paragraph (d) is clarified to show that distilled spirits plants are exempt from qualification under part 20 for manufacturing activities as well as dealer activities.
- In the last sentence in the introductory text of § 20.112(a), the word "alcohol" is replaced by "S.D.A." to clarify that the ingredients listed in § 20.112 are added to S.D.A. rather than to alcohol.

Comments Received in Response to Notice No. 83

In recent years, TTB has undertaken the revision of several parts of its regulations to update and modernize them. As part of this project, TTB published a notice of proposed rulemaking, Notice No. 83 (73 FR 26200; May 8, 2008), to solicit comments on proposed revisions to the distilled spirits plant regulations in 27 CFR part 19. Three of the comments received in response to Notice No. 83 related to regulations contained in 27 CFR parts 20 and 21.

One industry member proposed that, in S.D.S. and C.D.A. formulas, TTB specify a minimum amount of denaturant, rather than an exact amount of denaturant per a certain quantity of spirits. TTB believes that specifying a minimum amount of denaturant rather than an exact amount of denaturant per a certain quantity of spirits would cause problems in verifying compliance. Furthermore, the IRC in section 5242 requires that denaturants be "suitable to the use for which the denatured distilled spirits are intended to be withdrawn." To ensure that denatured spirits are suitable for their authorized uses (as indicated by the use codes prescribed for each S.D.S. formula), precise formulas must be followed. Each S.D.S. formula describes specific products that have been found to be suitable for the formula's indicated uses. A product with a higher concentration of denaturants might not be suitable for the same uses. Therefore, TTB will continue to specify exact amounts of denaturants per a certain quantity of spirits in S.D.S. and C.D.A. formulas. With respect to C.D.A., it should be noted that the denaturer is free to produce an article by addition of greater quantities of denaturants, subject to the requirement of 27 CFR 20.148 that the product may no longer be called C.D.A. if its composition and character have been materially changed. Further, the TTB regulations contain authority for TTB to allow variations from the specific requirements; under § 21.91, denaturers may obtain TTB permission to use greater amounts of denaturants.

Another industry member proposed that TTB create specific regulations for each category of article (e.g., cosmetics, topical over-the-counter drug products, cleaners, and laboratory products) because category-specific regulations may reduce recordkeeping burdens on manufacturers. This would require a reanalysis of and significant revisions to the regulations, which would not be appropriate for this document because TTB has not sought the views of those who are likely to be affected by such a significant revision of the regulations. This kind of change is outside the scope of TTB's recent review, so TTB is not planning to make such changes at this time.

A third industry member suggested that TTB harmonize the regulations for fuel alcohol produced by an alcohol fuel plant and C.D.A. 20 produced by a distilled spirits plant. TTB is considering this proposal for inclusion in a separate rulemaking with some other proposed changes to the regulations governing alcohol fuel plants, found in 27 CFR part 19, subpart X. TTB has also considered harmonizing the denaturants specified in § 21.24 for use in C.D.A. 20 and the materials authorized in § 19.746 for rendering alcohol unfit for beverage use for the production of fuel alcohol. TTB will consider making these changes in a future rulemaking.

Public Participation

Comments Sought

TTB invites comments on this proposed rulemaking from all interested parties. TTB is particularly interested in comments regarding the proposed revisions to the various definitions sections; TTB wants to define terms in a way that is clearly understandable and consistent with the relevant statutes. Please submit your comments by the closing date shown above in this document. All comments must reference Notice No. 136 and must include your name and mailing address. Your comments also must be made in English, be legible, and be written in language acceptable for public disclosure. TTB does not acknowledge receipt of comments, and considers all comments as originals.

Submitting Comments

You may submit comments on this document by using one of the following three methods:

- *Federal e-Rulemaking Portal:* You may send comments via the online comment form associated with this document in Docket No. TTB–2013–0005 on "Regulations.gov," the Federal e-rulemaking portal, at *http://www.regulations.gov*. A link to this Regulations.gov docket is available under Notice No. 136 on the TTB Web site at *http://www.ttb.gov/regulations_laws/all_rulemaking.shtml*.

Supplemental files may be attached to comments submitted via Regulations.gov. For information on how to use Regulations.gov, click on the site's Help tab.

- *U.S. Mail:* You may send comments via postal mail to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005.
- *Hand Delivery/Courier:* You may hand-carry your comments or have them hand-carried to the Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Suite 200–E, Washington, DC 20005.

In your comment, please clearly state if you are commenting on your own behalf or on behalf of an association, business, or other entity. If you are commenting on behalf of an entity, your comment must include the entity's name as well as your name and position title. If you comment via Regulations.gov, please include the entity's name in the "Organization" blank of the comment form. If you comment via postal mail, please submit your entity's comment on letterhead.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

Confidentiality

All submitted comments and attachments are part of the public record and are subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or that is inappropriate for public disclosure.

Public Disclosure

On the Federal e-rulemaking portal, Regulations.gov, TTB will post, and the public may view, copies of this document, selected supporting materials, and any electronic or mailed comments TTB receives about this proposal. You may view the Regulations.gov docket containing this document and the posted comments received on it through the Regulations.gov search page at *http://www.regulations.gov*.

All posted comments will display the commenter's name, organization (if any), city, and State, and, in the case of mailed comments, all address information, including email addresses. TTB may omit voluminous attachments or material that TTB considers unsuitable for posting.

You and other members of the public may view copies of this document, any supporting materials, and any electronic or mailed comments TTB receives about this proposal by appointment at the TTB Information Resource Center, 1310 G Street NW., Washington, DC 20005. You may also obtain copies at 20 cents per 8.5- x 11-inch page. Contact TTB's information specialist at the above address or by telephone at 202–453–2270 to schedule an appointment or to request copies of comments or other materials.

Regulatory Analysis and Notices

Executive Order 12866

This proposed rule is not a significant regulatory action as defined in Executive Order 12866. Therefore, it requires no regulatory assessment.

Regulatory Flexibility Act

Pursuant to the requirements of the Regulatory Flexibility Act (5 U.S.C. Chapter 6) TTB certifies that this notice of proposed rulemaking will not have a significant economic impact on a substantial number of small entities. The proposed rule will update the regulations to align them with current industry practice, clarify other regulatory provisions, and reduce the regulatory burden on the alcohol industry as well as TTB, resulting in an estimated 80 percent reduction in the number of article formulas submitted to TTB. Thus, the regulatory changes being proposed do not create any additional requirements or burdens on small businesses, and are expected to decrease the regulatory burden on industry members, including small entities. Accordingly, a regulatory flexibility analysis is not required. Pursuant to 26 U.S.C. 7805(f), TTB will submit the proposed regulations to the Chief Counsel for Advocacy of the Small Business Administration for comment on the impact of the proposed regulations on small businesses.

Paperwork Reduction Act

The collections of information in the regulations contained in this notice have been previously reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3504(h)) and assigned control numbers 1513–0011, 1513–0028, 1513–0037, 1513–0061, and 1513–0062. Specific regulatory sections in this proposed rule that contain collections of information are 27 CFR 19.607, 20.63, 20.95, 20.111, 20.117, 20.133, 20.134, 20.183, 20.193, 20.222, 20.262, 20.263, and 20.264. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Several amendments proposed in this document would reduce information collection burdens. Specifically, certain proposed amendments would alter circumstances under which article manufacturers must obtain formula approval using TTB Form 5150.19. Information collections associated with Form 5150.19 are currently approved under OMB control number 1513–0011. These amendments will reduce required submissions of Form 5150.19, and thus will reduce the total burden hours currently estimated for control number 1513–0011 by an estimated 955 burden hours, and an 80 percent reduction in the number of these forms submitted to TTB.

TTB proposes four categories of amendments that would reduce required submissions of Form 5150.19. First, TTB proposes to add new sections 27 CFR 20.120 through 20.124 setting forth five new general-use formulas covering articles made with 19 different S.D.A. formulations. Second, TTB proposes to amend regulations in part 21 to reclassify S.D.A. Formula Nos. 12–A and 35 as C.D.A. formulas. Third, TTB proposes to amend 27 CFR 20.113(a) to permit the use of S.D.A. Formula No. 3–C in the proprietary solvents general-use formula. Fourth, TTB proposes to amend 27 CFR 20.63 to allow a permittee to adopt, for use at a plant where such use is not specifically approved, one of the permittee's own article formulas previously approved for use at another of the permittee's plants, or to adopt a formula previously approved for a parent or wholly-owned subsidiary.

TTB estimates that, as a result of the amendments, the new annual burden hours will be as follows:

- *Estimated total annual reporting and/or record keeping burden:* 239 hours.
- *Estimated average annual burden hours per respondent:* 0.84 hours.
- *Estimated number of respondents:* 285.
- *Estimated annual frequency of responses:* 1 (one).

One proposed amendment involves an alteration to the information collection currently approved under, OMB control number 1513–0061. The amendment to 27 CFR 20.63 would allow a permittee to adopt, for use at a plant where such use is not specifically approved, one of the permittee's own article formulas previously approved for use at another of the permittee's plants, or to adopt a formula previously approved for a parent or wholly-owned subsidiary. Permittees may currently

adopt formulas under more limited circumstances by submitting a certificate of adoption to TTB, which is an information collection currently approved under control number 1513–0061. Although TTB estimates that the proposed amendment will increase the number of certificates of adoption submitted to TTB under § 20.63, it will also proportionally decrease the number of submissions of Form 5150.19 that would have been required absent the amendment. Since the estimated average annual burden per respondent relating to certificates of adoption approved under control number 1513–0061 is smaller than the average annual burden for Form 5150.19 under control number 1513–0011, the amendment will in actuality reduce the overall burden on permittees. TTB estimates that, as a result of this amendment, the new annual burden under control number 1513–0061 will be as follows:

- *Estimated total annual reporting and/or record keeping burden:* 1,897 hours.
- *Estimated average annual burden hours per respondent:* 0.5 hours.
- *Estimated number of respondents:* 3,794.
- *Estimated annual frequency of responses:* 1 (one).

Other amendments to regulatory sections that involve collections of information will not impact the burden hours associated with those collections. Proposed amendments to 27 CFR 19.607, 20.95, 20.111, 20.117, 20.133, 20.134, 20.193, 20.222, 20.262, 20.263, and 20.264 will not increase or decrease information collections because the amendments clarify preexisting regulatory requirements and do not otherwise impose new requirements increasing information collection burdens. Proposed new 27 CFR 20.183 would allow S.D.S. dealers to export S.D.S. and would require such dealers to complete TTB Form 5100.11. TTB estimates that the proposed amendment will not increase submissions of Form 5100.11 because, although the amendment will allow an additional category of persons to export, the amendment is not expected to increase demand for exported S.D.S. Thus, the exporters may be different, but the number of exportations is not expected to change. Since TTB is only proposing to include an additional category of persons entitled to export S.D.S., and not proposing to increase information collection burdens associated with exporting S.D.S., the proposed amendment would not impact currently estimated information collection burdens. Information collections associated with the amendments described in this paragraph are currently approved under OMB control numbers 1513–0028, 1513–0037, and 1513–0062. TTB estimates the new annual burden hours under these control numbers would be as follows:

OMB Control Number 1513–0028:

- *Estimated total annual reporting and/or record keeping burden:* 419 hours.
- *Estimated average annual burden hours per respondent:* 0.76 hour.
- *Estimated number of respondents:* 550.
- *Estimated annual frequency of responses:* 1 (one).

OMB Control Number 1513–0037:

- *Estimated total annual reporting and/or record keeping burden:* 6,000 hours.
- *Estimated average annual burden hours per respondent:* 20 hours.
- *Estimated number of respondents:* 300.
- *Estimated annual frequency of responses:* 20.

OMB Control Number 1513–0062:

- *Estimated total annual reporting and/or record keeping burden:* 1 hour.
- *Estimated number of respondents:* 3,430.
- *Estimated annual frequency of responses:* 1 (one).

Revisions of the currently approved collections have been submitted to the OMB for review. Comments on OMB control numbers 1513–0011, 1513–0028, 1513–0037, 1513–0061, and 1513–0062 should be sent to OMB at Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503 or email to *OIRA_submission@omb.eop.gov*. A copy should also be sent to TTB by any of the methods previously described. Comments on the information collection should be submitted not later than August 26, 2013.

Comments are specifically requested concerning:

- Whether the collections of information approved under OMB control numbers 1513–0011, 1513–0028, 1513–0037, 1513–0061, and 1513–0062 are necessary for the proper performance of the functions of TTB, including whether the information will have practical utility;
- The accuracy of the estimated burdens associated with the collections of information (see below);
- How to enhance the quality, utility, and clarity of the information to be collected;
- How to minimize the burden of complying with the collections of information, including the application of automated collection techniques or other forms of information technology; and
- Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Drafting Information

Steven C. Simon and Karen E. Welch of the Regulations and Rulings Division, TTB, drafted this document. Other employees of TTB contributed to the development of this document.

List of Subjects

27 CFR Part 19

Caribbean Basin Initiative, Claims, Electronic funds transfer, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Research, Security measures, Surety bonds, Vinegar, Virgin Islands, Warehouses.

27 CFR Part 20

Alcohol and alcoholic beverages, Claims, Cosmetics, Excise taxes, Labeling, Packages and containers, Penalties, Reporting and recordkeeping requirements, Surety bonds.

27 CFR Part 21

Alcohol and alcoholic beverages.

27 CFR Part 27

Alcohol and alcoholic beverages, Beer, Cosmetics, Customs duties and inspection, Electronic fund transfers, Excise taxes, Imports, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Wine.

27 CFR Part 28

Aircraft, Alcohol and alcoholic beverages, Armed forces, Beer, Claims, Excise taxes, Exports, Foreign trade zones, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Vessels, Warehouses, and Wine.

Proposed Amendments to the Regulations

For the reasons explained in the preamble, TTB proposes to amend 27 CFR parts 19, 20, 21, 27, and 28 as set forth below:

PART 19—DISTILLED SPIRITS PLANTS

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

Authority: 19 U.S.C. 81c, 1311; 26 U.S.C. 5001, 5002, 5004–5006, 5008, 5010, 5041, 5061, 5062, 5066, 5081, 5101, 5111–5114.

5121–5124, 5142, 5143, 5146, 5148, 5171–5173, 5175, 5176, 5178–5181, 5201–5204, 5206, 5207, 5211–5215, 5221–5223, 5231, 5232, 5235, 5236, 5241–5243, 5271, 5273, 5301, 5311–5313, 5362, 5370, 5373, 5501–5505, 5551–5555, 5559, 5561, 5562, 5601, 5612, 5682, 6001, 6065, 6109, 6302, 6311, 6676, 6806, 7011, 7510, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

■ 2. Section 19.412 is added under the undesignated center heading "Receipt of Spirits from Customs Custody" to read as follows:

§ 19.412 Importation of denatured spirits.

For provisions relating to the importation of denatured spirits, see § 27.222 of this chapter.

■ 3. Section 19.607 is revised to read as follows:

§ 19.607 Article manufacture records.

Each processor qualified to manufacture articles must maintain daily manufacturing and disposition records, arranged by the name and authorized Use Code of the article, in the manner provided in part 20 of this chapter.

■ 4. Section 19.746 is amended by revising paragraphs (b)(1)(xi) and (xii), adding paragraphs (b)(1)(xiii) through (xvi), and revising paragraph (c) to read as follows:

§ 19.746 Authorized materials.

* * * * *

(b) * * *

(1) * * *

(xi) Naphtha;

(xii) Straight run gasoline;

(xiii) Alkylate;

(xiv) High octane denaturant blend;

(xv) Methyl tertiary butyl ether; or

(xvi) Any combination of the materials listed in paragraphs (b)(1)(i) through (xv) of this section;

* * * * *

(c) *Specifications.* Specifications for the materials listed in paragraph (b) are found in part 21, subpart E, of this chapter.

* * * * *

PART 20—DISTRIBUTION AND USE OF DENATURED ALCOHOL AND RUM

■ 5. The authority citation for part 20 continues to read as follows:

Authority: 26 U.S.C. 5001, 5206, 5214, 5271–5275, 5311, 5552, 5555, 5607, 6065, 7805.

■ 6. Section 20.11 is amended by:

■ a. Revising the definition of "Specially denatured spirits";

■ b. Adding, in alphabetical order, definitions for "Fit for beverage use, or fit for beverage purposes," "Internal human use," "TTB," and "Unfit for beverage use, or unfit for beverage purposes"; and

■ c. Revising the Office of Management and Budget control number referenced at the end of the section.

The revisions and additions read as follows:

§ 20.11 Meaning of terms.

* * * * *

Fit for beverage use, or fit for beverage purposes. Suitable for consumption as an alcoholic beverage by a normal person, or susceptible of being made suitable for such consumption merely by dilution with water to an alcoholic strength of 15 percent by volume. The determination is based solely on the composition of the product and without regard to extraneous factors such as price, labeling, or advertising.

* * * * *

Internal human use. Use inside the human body, but not including use only in the mouth where the substance being used is not intended to be swallowed.

* * * * *

Specially Denatured Spirits or S.D.S. Specially denatured alcohol and/or specially denatured rum.

* * * * *

TTB. The Alcohol and Tobacco Tax and Trade Bureau, U.S. Department of the Treasury.

* * * * *

Unfit for beverage use, or unfit for beverage purposes. Not conforming to the definition of "Fit for beverage use, or fit for beverage purposes" in this section.

* * * * *

(Approved by the Office of Management and Budget under control number 1513–0061)

■ 7. In § 20.41, paragraph (d)(1) is revised to read as follows:

§ 20.41 Application for industrial alcohol user permit.

* * * * *

(d) *Exceptions.* (1) The proprietor of a distilled spirits plant qualified under part 19 of this chapter is not required to qualify under this part for activities conducted at that plant's bonded premises.

* * * * *

■ 8. Section 20.63 is revised to read as follows:

§ 20.63 Adoption of formulas and statements of process.

(a) Adoption of formulas and statements of process is permitted:

(1) When a successor (proprietorship or fiduciary) adopts a predecessor's formulas and statements of process as provided in §§ 20.57(c) and 20.58; and

(2) When a permittee adopts for use at one plant, the formulas previously approved by TTB for use at another plant, or when a permittee adopts a formula previously approved by TTB for a parent or subsidiary, provided that in the case of a parent-subsidiary relationship the subsidiary is wholly-owned by the parent.

(b) The adoption will be accomplished by the submission of a certificate of adoption. The certificate of adoption shall be submitted to the appropriate TTB officer and shall contain:

(1) A list of all approved formulas or statements of process in which S.D.S. is used or recovered;

(2) The formulas of S.D.S. used or recovered;

(3) The dates of approval of the relevant Forms 1479–A or TTB Forms 5150.19;

(4) The applicable code number(s) for the article or process;

(5) The name of the permittee adopting the formulas, followed by the phrase, for each formula, "Formula of _____ (Name and permit number of permittee who received formula approval) is hereby adopted;" and

(6) In the case of a permittee adopting the formulas of another entity, evidence of its relationship to that entity.

(Approved by the Office of Management and Budget under control number 1513–0061)

■ 9. Section 20.95 is revised to read as follows:

§ 20.95 Developmental samples of articles.

(a) *Samples for submission to TTB.* Prior to receiving formula approval on TTB Form 5150.19, a user may use S.D.S. in the manufacture of samples of articles for submission in accordance with § 20.92. However, the user may only use the limited quantity of S.D.S. that is necessary to produce the samples.

(b) *Samples for shipment to prospective customers.* Prior to submitting a formula and statement of process on TTB Form 5150.19, a user may use S.D.S. to prepare developmental samples of articles for shipment to prospective customers. Only one sample of each formulation of the article under development may be sent to each customer. Each sample shall be no larger than necessary for the customer to determine whether the product meets its requirements. The user shall maintain records showing:

(1) The types of product samples prepared;

(2) The size and number of samples sent, on a one-time basis, to each prospective customer; and

(3) The names and addresses of the prospective customers.

(c) *Formula requirement.* Before the user begins to make a quantity greater

than specified in this section, formula approval on TTB Form 5150.19 is required.

(Approved by the Office of Management and Budget under control number 1513–0062)

■ 10. Section 20.102 is revised to read as follows:

§ 20.102 Bay rum, alcoholado, or alcoholado-type toilet waters.

Unless manufactured exclusively for export under a formula approved by TTB and endorsed "For Export Only," bay rum, alcoholado, or alcoholado-type toilet waters made with S.D.S. shall contain in each gallon of finished product:

(a) 71 milligrams of denatonium benzoate (also known as benzyldiethyl (2:6-xylylcarbamoyl methyl) ammonium benzoate) in addition to any of this material used as a denaturant in the specially denatured alcohol;

(b) 2 grams of tartar emetic; or

(c) 0.5 avoirdupois ounce of sucrose octaacetate.

§ 20.103 [Removed and Reserved]

■ 11. Section 20.103 is removed and reserved.

■ 12. Section 20.111 is amended by revising paragraph (a), adding paragraph (c), and revising the Office of Management and Budget control number referenced at the end of the section to read as follows:

§ 20.111 General.

(a) Formula approval obtained on TTB Form 5150.19 is not required for an article made in accordance with any approved general-use formula that is specified in §§ 20.112 through 20.124, that is approved by the appropriate TTB officer as an alternate method, or that is published as a TTB Ruling on the TTB Web site at *http://www.ttb.gov*. However, a statement of process on TTB Form 5150.19 is still required in any of the circumstances described in § 20.94.

* * * * *

(c) The manufacturer shall ensure that each finished article made pursuant to a general-use formula is unfit for beverage use and is incapable of being reclaimed or diverted to beverage use or internal human use.

(Approved by the Office of Management and Budget under control number 1513–0061)

§ 20.112 [Amended]

■ 13. In § 20.112, the last sentence of paragraph (a) introductory text is amended by removing the word "alcohol" and adding, in its place, the letters "S.D.A.", and paragraph (a)(1) is amended by adding the words "propylene glycol monomethyl ether," after the words "nitropropane (mixed isomers),".

■ 14. In § 20.113, the last sentence of the paragraph (a) introductory text is revised to read as follows:

§ 20.113 Proprietary solvents general-use formula.

(a) * * * A proprietary solvent made pursuant to this formula shall be made with alcohol denatured in accordance with S.D.A. Formula No. 1, 3–A, or 3–C and shall contain, for every 100 parts (by volume) of S.D.A.:

* * * * *

■ 15. In § 20.114, the introductory text and paragraph (a) are revised to read as follows:

§ 20.114 Tobacco flavor general-use formula.

This tobacco flavor general-use formula authorizes the production of any finished article made with alcohol denatured in accordance with S.D.A. Formula No. 4 or S.D.R. Formula No. 4 which—

(a) Contains flavors sufficient to ensure that the article is unfit for beverage or internal human use,

* * * * *

■ 16. In § 20.115, the introductory text and paragraph (a) are revised to read as follows:

§ 20.115 Ink general-use formula.

This ink general-use formula authorizes the production of any finished article made with alcohol denatured in accordance with S.D.A. Formula No 1, 3–A, 3–C, 13–A, 23–A, 30, or 32, or which—

(a) Contains pigments, dyes, or dyestuffs sufficient to ensure that the article is unfit for beverage use,

* * * * *

■ 17. Section 20.116 is revised to read as follows:

§ 20.116 Low alcohol general-use formula.

This low alcohol general-use formula authorizes the production of any finished article containing not more than 5 percent alcohol by weight or volume. Articles containing no alcohol, or whose manufacture involves the recovery of S.D.S., shall be covered by a statement of process on TTB Form 5150.19 submitted under § 20.94.

■ 18. Section 20.117 is revised to read as follows:

§ 20.117 Reagent alcohol general-use formula.

(a) *General.* Reagent alcohol must be made in accordance with paragraph (b) of this section and labeled in accordance with paragraph (c) of this section. Reagent alcohol is—

(1) Treated as an article if distributed and used in accordance with paragraph (d) of this section; or

(2) Treated as S.D.A. if distributed and used in accordance with paragraph (e) of this section.

(b) *Formula.* Reagent alcohol shall be made with 95 parts (by volume) of S.D.A. 3–A, and 5 parts (by volume) of isopropyl alcohol. Water may be added at the time of manufacture. Reagent alcohol shall not contain any ingredient other than those specified in this paragraph.

(c) *Labeling.* (1) Each container of reagent alcohol, regardless of size, shall have affixed to it a label containing the following words that are as conspicuous as any other words on the container labels: "Reagent Alcohol: Specially Denatured Alcohol Formula 3–A, 95 parts by vol.; and Isopropyl Alcohol, 5 parts by vol." If water is added at the time of manufacture, the label shall specify the composition of the product as diluted.

(2) Because undiluted reagent alcohol contains 4 percent by weight or more of methyl alcohol, the container shall have a label bearing a skull and crossbones symbol and the following words: "Danger," "Poison," "Vapor harmful," "May be fatal or cause blindness if swallowed," and "Cannot be made nonpoisonous." However, if the addition of water reduces the methyl alcohol concentration to less than 4 percent by weight, the requirements of this paragraph do not apply.

(3) A back label shall be attached showing the word "ANTIDOTE," followed by suitable directions for an antidote.

(d) *Distribution and use of reagent alcohol as an article.* Reagent alcohol is treated as an article if distributed exclusively for the purpose of scientific use. Only the following distributions of reagent alcohol are permitted under this paragraph:

(1) *For scientific use*—(i) *In smaller containers.* The manufacturer or repackager of the reagent alcohol, or an S.D.S. dealer, may distribute reagent alcohol in containers not exceeding four liters to laboratories or other persons who require reagent alcohol for scientific use.

(ii) *In bulk containers.* The manufacturer of the reagent alcohol, or an S.D.S. dealer, may distribute reagent alcohol in containers larger than four liters to a laboratory or other person requiring reagent alcohol for scientific use if that laboratory or person is qualified to receive bulk shipments of reagent alcohol on [EFFECTIVE DATE OF FINAL RULE] or has received, from the appropriate TTB officer, approval of

a letterhead application containing the following information:

(A) The applicant's name, address, and permit number, if any;

(B) An explanation of the applicant's need for bulk quantities of reagent alcohol;

(C) A description of the security measures that will be taken to segregate reagent alcohol from denatured spirits or other alcohol that may be on the same premises; and

(D) A statement that the applicant will allow any appropriate TTB officer to inspect the applicant's premises.

(2) *For repackaging.* The manufacturer of the reagent alcohol, or an S.D.S. dealer, may distribute reagent alcohol in containers larger than 4 liters to the persons specified in this paragraph. Those persons must repackage the reagent alcohol in containers not exceeding 4 liters, label the smaller packages in accordance with paragraph (c) of this section, and redistribute them in accordance with paragraph (d)(1)(i) of this section. The persons to whom reagent alcohol may be distributed in bulk for repackaging under this paragraph are:

(i) A proprietor of a bona fide laboratory supply house; and

(ii) Any other person who was qualified to receive bulk shipments of reagent alcohol on [EFFECTIVE DATE OF FINAL RULE], or who has received, from the appropriate TTB officer, approval of a letterhead application containing all of the information required by paragraph (d)(1)(ii)(A) through (D), in addition to the following:

(A) A statement that the applicant will comply with the labeling, packaging, and distribution requirements of paragraphs (c) and (d)(1) of this section; and

(B) A statement that the applicant will comply with the requirements of § 20.133.

(3) *For redistribution.* The manufacturer of the reagent alcohol, or an S.D.S. dealer, may distribute reagent alcohol in containers of any size to an S.D.S. dealer for redistribution in accordance with this section. An S.D.S. dealer distributing or redistributing reagent alcohol may repackage it in containers of any size permitted under this section that is necessary for the conduct of business.

(e) *Distribution and use of reagent alcohol in manufacturing.* Reagent alcohol is treated as S.D.A. if distributed for the purpose of manufacturing. The following requirements apply to reagent alcohol treated as S.D.A.:

(1) The manufacturer of the reagent alcohol, or an S.D.S. dealer, may distribute reagent alcohol in containers of any size to the persons specified in this paragraph for use in manufacturing.

(2) A person may receive reagent alcohol for use in manufacturing if the person:

(i) Holds a permit as an S.D.A. user;

(ii) Has received formula approval on TTB Form 5150.19 to use reagent alcohol in manufacturing; and

(iii) Treats the reagent alcohol as S.D.A., not an article.

(Approved by the Office of Management and Budget under control number 1513–0061)

§ 20.119 [Amended]

■ 19. In § 20.119, the introductory text is amended by:

■ a. Removing the words "shall consist of" and adding, in their place, the word "describes"; and

■ b. Removing the word "formula" the second time it appears and adding, in its place, the word "formulation".

■ 20. In subpart F, §§ 20.120 through 20.124 are added to read as follows:

§ 20.120 General-use formula for articles made with S.D.A. 1, 3–A, 13–A, 19, 23–A, 23–H, 30, 32, 35–A, 36, 37, 38–D, 40, 40–A, or 40–B.

This general-use formula authorizes the manufacture of any article that:

(a) Is made with alcohol denatured in accordance with S.D.A. Formula No. 1, 3–A, 13–A, 19, 23–A, 23–H, 30, 32, 35–A, 36, 37, 38–D, 40, 40–A, and/or 40–B, but no other specially denatured spirits formula;

(b) Conforms to one of the Use Codes specified in part 21 of this chapter authorized for the S.D.A. formulation(s) being used to make the article, other than Use Code 900, as described in part 21 of this chapter; and

(c) Contains sufficient additional ingredients, other than the denaturants prescribed for the applicable S.D.A. formula(s)—

(i) To definitely change the composition and character of the S.D.A. used to make the article, and

(ii) To ensure that the finished article is unfit for beverage or internal human use, and, unless approved "for export only" under § 20.193(b), is incapable of being reclaimed or diverted to beverage use or internal human use.

§ 20.121 Vinegar general-use formula.

The vinegar general-use formula is a formula for making vinegar with alcohol denatured in accordance with S.D.A. Formula No. 18 in a process whereby all of the ethyl alcohol, except residual alcohol within the limit specified in § 20.104, loses its identity by being converted to vinegar.

§ 20.122 S.D.A. 39–C general-use formula.

S.D.A. 39–C general-use formula is a formula for articles made with alcohol denatured in accordance with S.D.A. Formula No. 39–C. Articles made pursuant to this general-use formula shall contain, in each gallon of finished product, not less than 2 fl. oz. of perfume material (essential oils as defined in § 21.11, isolates, aromatic chemicals, etc.). Unless approved with the endorsement "for export only," all articles made with alcohol denatured in accordance with S.D.A. Formula No. 39–C must be made in accordance with this formula.

§ 20.123 Pressurized container general-use formula.

This general-use formula describes an article, made with alcohol denatured in accordance with S.D.A. Formula No. 40–C, that will be packaged in pressurized containers in which the liquid contents are in intimate contact with the propellant and from which the contents are not easily removable in liquid form.

§ 20.124 Duplicating fluid and ink solvent general-use formula.

(a) Duplicating fluids and ink solvents under this general-use formula shall be made with alcohol denatured in accordance with S.D.A. Formula No. 1, 3–A, or 3–C and

(1) Shall contain, for every 100 parts (by volume) of denatured alcohol:

(i) No less than 1 part (by volume) of *n*-propyl acetate, and no less than 10 parts (by volume) of one or any combination of isopropyl alcohol or methyl alcohol; or

(ii) No less than 5 parts (by volume) of n-propyl acetate; and

(2) May contain additional ingredients.

(b) Duplicating fluids and ink solvents are intended for use in the printing industry, shall not be sold for general solvent use, and shall not be distributed through retail channels for sale as consumer commodities for personal or household use.

(c) If this article contains 4 percent or more by weight of methyl alcohol, the label shall have a skull and crossed bones symbol and the following words: "Danger," "Poison," "Vapor harmful," "May be fatal or cause blindness if swallowed," and "Cannot be made nonpoisonous."

■ 21. In § 20.133, paragraph (b) is revised, paragraph (c) is added, and the Office of Management and Budget control number referenced at the end of the section is revised to read as follows:

§ 20.133 Registration of persons trafficking in articles.

* * * * *

(b) A person who reprocesses articles shall ensure that each article containing 0.5 percent or more alcohol by weight or volume is unfit for beverage or internal human use and is incapable of being reclaimed or diverted to beverage use or internal human use.

(c) The appropriate TTB officer will prohibit any of the activities described in paragraph (a) of this section if the activity jeopardizes the revenue or increases the burden of administering this part.

(Approved by the Office of Management and Budget under control number 1513–0061)

■ 22. In § 20.134, paragraph (a) and the Office of Management and Budget control number referenced at the end of the section are revised to read as follows:

§ 20.134 Labeling.

(a) *General.* Except as otherwise provided in paragraph (b) or (c) of this section, the immediate container of each article shall, before removal from the manufacturer's premises, bear the following information either directly on the container or on a label securely attached to it:

(1) The name, trade name or brand name of the article; and

(2) The name and address (city and State) of the manufacturer or distributor of the article.

* * * * *

(Approved by the Office of Management and Budget under control number 1513–0061)

§ 20.136 [Amended]

■ 23. In § 20.136, the third sentence of paragraph (b) is amended by removing the words "Formula Nos." and adding, in their place, the words "formulations".

§ 20.141 [Amended]

■ 24. In § 20.141, paragraph (a) is amended by removing the word "formula" the first time it appears, and adding, in its place, the word "formulation", and by adding the words "formulations of" after the words "For example,".

§ 20.170 [Amended]

■ 25. Section 20.170 is amended by removing the word "formula" and adding, in its place, the word "formulation".

§ 20.175 [Amended]

■ 26. In § 20.175, paragraph (c) is amended by adding to the end of the sentence the words, "except as provided in 26 U.S.C. 5001(a)(4) and (5)".

■ 27. Section 20.183 is added under the undesignated center heading "Operations By Dealers" to read as follows:

§ 20.183 Exportation of S.D.S.

(a) *General.* Except as otherwise provided in paragraph (b) of this section, a dealer may export S.D.S. that conform to a formula specified in part 21 of this chapter to any country that allows the importation of such spirits. The exporting dealer shall:

(1) For each export shipment, prepare TTB Form 5100.11 in accordance with its instructions as a notice and submit it to the appropriate TTB officer;

(2) Mark each shipping container and case with the words "For Export";

(3) Export the S.D.S. directly; and

(4) Retain appropriate documentation, such as invoices and bills of lading, as evidence that the denatured spirits were, in fact, exported.

(b) *Exception.* A dealer may not export under paragraph (a) of this section any spirits that conform to Formula No. 3–C, 29, or 38–B.

■ 28. Section 20.189 is amended by revising paragraphs (c) and (d) to read as follows:

§ 20.189 Use of S.D.S.

* * * * *

(c) Unless otherwise authorized by the appropriate TTB officer, each formulation of S.D.S. may be used only for the purposes authorized for that formulation under part 21 of this chapter.

(d) By the use of essential oils and/or chemicals in the manufacture of each article containing 0.5 percent or more alcohol by weight or volume, the manufacturer shall ensure that:

(1) Each finished article is unfit for beverage use; and

(2) Unless approved "for export only" under § 20.193(b), each finished article is incapable of being reclaimed or diverted to beverage use or internal human use.

* * * * *

■ 29. Section 20.193 is added to subpart I to read as follows:

§ 20.193 Articles for export.

(a) Articles approved without qualification, including articles made in accordance with one of the general-use formulas in §§ 20.111 through 20.124, may be exported without restriction.

(b) For each article for which the approved formula is endorsed "For Export Only" the manufacturer shall:

(1) Label the immediate container to clearly show that the article is for export (for example, with the words "For export only", "Not for sale in the United States", or "Manufactured for sale in _____");

(2) Mark the shipping containers and cases with the words "For Export";

(3) Export the article directly; and

(4) Retain appropriate documentation, such as invoices and bills of lading, as evidence that the article was, in fact, exported.

(c) All articles for export shall comply with the applicable requirements of the countries to which they are sent.

■ 30. In § 20.204, paragraph (c) is revised to read as follows:

§ 20.204 Incomplete shipments.

* * * * *

(c) Subject to the limitations for loss prescribed in § 20.202, the shipper (dealer or distilled spirits plant proprietor) shall file a claim for allowance of the entire quantity lost, in the manner provided in that section. The claim shall include the applicable data required by § 20.205.

■ 31. Section 20.222 is revised to read as follows:

§ 20.222 Destruction.

(a) *Record of destruction.* A permittee who destroys specially denatured spirits or recovered alcohol, or who transfers such material to another entity for destruction, shall prepare a record of destruction, which shall be maintained by the permittee with the records required by subpart P of this part. The record shall identify—

(1) The reason for destruction,

(2) The date, time, location and manner of destruction,

(3) The quantity involved and, if applicable, identification of containers, and

(4) The name of the individual who accomplished or supervised the destruction.

(b) *Destruction by nonpermittees.* In general, the destruction of specially denatured spirits and recovered alcohol shall be performed by a permittee or a distilled spirits plant. However, a nonpermittee may destroy recovered alcoholic material if the material has been determined by the appropriate TTB officer to be equivalent to an article. If the material is not so determined, destruction may only occur on the premises of the manufacturer who recovered the material, a distilled spirits plant, or a dealer permittee.

(Approved by the Office of Management and Budget under control number 1513–0062)

§ 20.262 [Amended]

■ 32. Section 20.262 is amended in paragraphs (a) introductory text, (b), and (c) by removing the word "formula" and adding, in its place, the word "formulation".

§ 20.263 [Amended]

■ 33. Section 20.263 is amended in paragraphs (a) introductory text, (b), and (c) by removing the word "formula" and adding in its place, the word "formulation".

■ 34. In § 20.264, paragraphs (a)(1) and (2) are revised, paragraph (a)(4) is added, and the Office of Management and Budget control number referenced at the end of the section is revised to read as follows:

§ 20.264 User's records and report of products and processes.

(a) *Records.* (1) Each user shall maintain separate accountings of—

(i) The number of gallons of each formulation of new S.D.S. used for each product or process, recorded by the code number prescribed by § 21.141 of this chapter; and

(ii) The number of gallons of each formulation of recovered S.D.S. used for each product or process, recorded by the code number prescribed by § 21.141 of this chapter.

(2) Each user who recovers specially denatured spirits shall maintain separate accountings of the number of gallons of each formulation of specially denatured spirits recovered from each product or process, recorded by the code number prescribed by § 21.141 of this chapter.

* * * * *

(4) Each user who manufactures articles for export subject to § 20.193(b) shall retain the documentation required by § 20.193(b)(4).

* * * * *

(Approved by the Office of Management and Budget under control number 1513–0062)

PART 21—FORMULAS FOR DENATURED ALCOHOL AND RUM

■ 35. The authority citation of part 21 continues to read as follows:

Authority: 5 U.S.C. 552(a), 26 U.S.C. 5242, 7805.

■ 36. Section 21.21a is added to read as follows:

§ 21.21a Formula No. 12–A.

Formula. To every 100 gallons of alcohol of not less than 185 proof add: Five gallons of toluene or 5 gallons of heptane.

■ 37. In § 21.24, paragraph (a) is revised to read as follows:

§ 21.24 Formula No. 20.

(a) *Formula.* To every 100 gallons of ethyl alcohol of not less than 195 proof add:

A total of 2.0 gallons of either unleaded gasoline, rubber hydrocarbon solvent, kerosene, deodorized kerosene, alkylate, ethyl tertiary butyl ether, high octane denaturant blend, methyl tertiary butyl ether, naphtha, natural gasoline, raffinate, or any combination of these; or

A total of 5.0 gallons of toluene.

* * * * *

■ 38. In subpart C, § 21.25 is added to read as follows:

§ 21.25 Formula No. 35.

Formula. To every 100 gallons of alcohol of not less than 185 proof add:

29.75 gallons of ethyl acetate having an ester content of 100 percent by weight or the equivalent thereof not to exceed 35 gallons of ethyl acetate with an ester content of not less than 85 percent by weight.

■ 39. In § 21.33, paragraph (a) is revised to read as follows:

§ 21.33 Formula No. 2–B.

(a) *Formula.* To every 100 gallons of alcohol add:

One-half gallon of rubber hydrocarbon solvent, ½ gallon of toluene, ½ gallon of heptane, ½ gallon of hexane (mixed isomers), or ½ gallon of *n*-hexane.

* * * * *

§§ 21.34, 21.36, 21.39, 21.40, 21.42, 21.45, 21.46, 21.48, 21.52 through 21.54, 21.60, 21.61, 21.66, 21.69, 21.70, 21.78, and 21.81 [Removed and Reserved]

■ 40. Sections 21.34, 21.36, 21.39, 21.40, 21.42, 21.45, 21.46, 21.48, 21.52 through 21.54, 21.60, 21.61, 21.66, 21.69, 21.70, 21.78, and 21.81 are removed and reserved.

§ 21.35 [Amended]

■ 41. In § 21.35, paragraph (a) is amended by adding the words "cyclohexane or" before the words "methyl alcohol."

§ 21.63 [Amended]

■ 42. In § 21.63, paragraph (a) is amended by adding the words "8.75 pounds of potassium hydroxide, on an anhydrous basis;" before the words "or 12.0 pounds of caustic soda,".

§ 21.65 [Amended]

■ 43. In § 21.65, the list in paragraph (a) is amended by adding entries reading "Cornmint oil.", "Distilled lime oil.", "L(–)–Carvone.", "Lemon oil.", and "Peppermint oil, Terpeneless.", in appropriate alphabetical order.

■ 44. In § 21.68, paragraphs (a)(1) and (2) are revised to read as follows:

§ 21.68 Formula No. 38–F.

(a) * * *

(1) Six pounds of either boric acid, N.F., Polysorbate 80, N.F., or Poloxamer 407, N.F.; $1^1/_3$ pounds of thymol, N.F.; $1^1/_3$ pounds of chlorothymol, N.F. XII; and $1^1/_3$ pounds of menthol, U.S.P.; or

(2) A total of at least 3 pounds of any two or more denaturing materials listed under Formula No. 38–B, plus sufficient boric acid, N.F., Polysorbate 80, N.F., or Poloxamer 407, N.F. to total 10 pounds of denaturant; or

* * * * *

■ 45. Section 21.91 is amended by adding a sentence at the end of the section to read as follows:

§ 21.91 General

* * * The authorization of a substitute denaturant may be published in a TTB Ruling.

■ 46. Section 21.94a is added to read as follows:

§ 21.94a Alkylate.

(a) *API gravity at 60 °F.* 70.4.

(b) *Reid vapor pressure (PSI).* 5.60 maximum.

(c) *Distillation (°F):*

(1) *I.B.P.* 109.0.

(2) *10 percent.* 186.6.

(3) *50 percent.* 221.1.

(4) *90 percent.* 271.8.

(5) *End point distillation.* 375.7.

§§ 21.98, 21.103, 21.104, 21.111, 21.121, 21.122, and 21.128 [Removed and Reserved]

■ 47. Sections 21.98, 21.103, 21.104, 21.111, 21.122, and 21.128 are removed and reserved.

■ 48. Section 21.105a is added to read as follows:

§ 21.105a Cornmint oil (Mentha arvensis and Mentha canadensis).

(a) *Specific gravity at 25 °C.* 0.895 to 0.905.

(b) *Refractive index at 20 °C.* 1.4580 to 1.4590.

(c) *Optical rotation at 20 °C.* −18° to −36°.

(d) *Alcohol content (as menthol).* 65 percent minimum.

(e) *Ketone content (as menthone).* 5 percent minimum.

■ 49. Section 21.105b is added to read as follows:

§ 21.105b Cyclohexane.

(a) *Specific gravity at 20 °C.* 0.75 to 0.80.

(b) *Odor.* Characteristic odor.

■ 50. Section 21.106a is added to read as follows:

§ 21.106a Distilled lime oil (Citrus aurantifolia).

(a) *Specific gravity at 25 °C.* 0.850 to 0.870.

(b) *Refractive index at 20 °C.* 1.4740 to 1.4780.

(c) *Optical rotation at 20 °C.* +30° to +50°.

(d) *Aldehyde content (as citral).* 0.5 to 3.0 percent.

(e) *Terpene content (as limonene).* 45 percent minimum.

■ 51. Section 21.108a is added to read as follows:

§ 21.108a Ethyl tertiary butyl ether.

(a) *Purity.* ≥95.0 percent.
(b) *Color.* Colorless to light yellow.
(c) *Odor.* Terpene-like.
(d) *Specific gravity at 20 °C.* 0.70 to 0.80.
(e) *Boiling point (°C).* 73.

■ 52. Section 21.112a is added to read as follows:

§ 21.112a Hexane (mixed isomers).

(a) *General.* Minimum 55 percent *n*-hexane.
(b) *Distillation range.* No distillate should come over below 150 °F and none above 160 °F.
(c) *Odor.* Characteristic odor.

■ 53. Section 21.112b is added to read as follows:

§ 21.112b n-Hexane.

(a) *General.* Minimum 97 percent purity.
(b) *Distillation range.* No distillate should come over below 150 °F and none above 160° F.
(c) *Odor.* Characteristic odor.

■ 54. Section 21.112c is added to read as follows:

§ 21.112c High octane denaturant blend.

(a) *API Gravity at 60 °F.* 40 to 65.
(b) *Reid Vapor Pressure (PSI).* 6 to 15.
(c) *Isopropyl alcohol.* 24 to 40 percent volume.
(d) *Methyl alcohol.* 1.6 to 9.6 percent volume.
(e) *Diisopropyl ether (DIPE).* 4 to 12 percent volume.
(f) *tert-Butyl alcohol.* 4 to 12 percent volume.
(g) *Iso-pentane.* 4 to 9 percent volume.
(h) *Pentane.* 4 to 9 percent volume.
(i) *Pentene.* 0 to 2.4 percent volume.
(j) *Hexane.* 2 to 6 percent volume.
(k) *Heptane.* 1 to 3 percent volume.
(l) *Sulfur (ppm).* 0 to 120.
(m) *Benzene (% vol.).* 0 to 1.1.
(n) *Distillation (°F):*
(1) *10 percent.* 80 to 168.
(2) *50 percent.* 250.
(3) *End point distillation.* 437.

■ 55. Section 21.115a is added to read as follows:

§ 21.115a Lemon oil (Citrus limonium).

(a) *Specific gravity at 25 °C.* 0.850 to 0.860.
(b) *Refractive index at 20 °C.* 1.4570 to 1.4580.
(c) *Optical rotation at 20 °C.* +55° to +65°.
(d) *Terpene content (as limonene).* 65 percent minimum.

■ 56. Section 21.115b is added to read as follows:

§ 21.115b L(–)–Carvone.

(a) *Specific gravity at 25 °C.* 0.955 to 0.965.
(b) *Refractive index at 20 °C.* 1.495 to 1.500.
(c) *Angular rotation.* −57° to −62°.
(d) *Assay.* Not less than 97.0 percent.

■ 57. Section 21.118a is added to read as follows:

§ 21.118a Methyl tertiary butyl ether.

(a) *Purity.* ≥97.0 percent.
(b) *Color.* Clear, colorless.
(c) *Odor.* Turpentine-like.
(d) *Specific Gravity at 20 °C.* 0.70 to 0.80.
(e) *Boiling Point (°C).* 55.

■ 58. Section 21.118b is added to read as follows:

§ 21.118b Naphtha.

(a) *API Gravity at 60 °F.* 30 to 85.
(b) *Reid Vapor Pressure (PSI).* 8 maximum.
(c) *Specific Gravity at 20 °C.* 0.70 to 0.80.
(d) *Distillation (°F):*
(1) *I.B.P.* 85 maximum.
(2) *10 percent.* 130 maximum.
(3) *50 percent.* 250 maximum.
(4) *90 percent.* 340 maximum.
(e) *End point distillation.* 380 maximum.
(f) *Copper corrosion.* One (1).
(g) *Sabolt color.* 28 minimum.

■ 59. Section 21.118c is added to read as follows:

§ 21.118c Natural gasoline.

Natural gasoline is a mixture of various alkanes including butane, pentane, and hexane hydrocarbons extracted from natural gas. It has a distillation range wherein no more than 10 percent by volume of the sample may distill below 97 °F; at least 50 percent by volume shall distill at or below 156 °F; and at least 90 percent by volume shall distill at or below 209 °F.

■ 60. Section 21.121 is revised to read as follows:

§ 21.121 Peppermint oil, Terpeneless.

(a) *Specific gravity at 25 °C.* 0.890 to 0.910.
(b) *Refractive index at 20 °C.* 1.455 to 1.465.
(c) *Esters as menthyl acetate.* 5 percent minimum.
(d) *Menthol (free and esters).* 5 percent minimum.

■ 61. Section 21.121a is added to read as follows:

§ 21.121a Potassium Hydroxide.

(a) *Color.* White or yellow.
(b) *Specific gravity at 20 °C.* 1.95 to 2.10.
(c) *Melting point.* 360 °C.
(d) *Boiling point.* 1320 °C.
(e) *pH (0.1M solution).* 13.5.

■ 62. Section 21.124a is added to read as follows:

§ 21.124a Raffinate.

(a) *API Gravity at 60 °F.* 30 to 85.
(b) *Reid Vapor Pressure (PSI).* 5 to 11.
(c) *Octane (R+M/2).* 66 to 70.
(d) *Distillation (°F):*
(1) *10 percent.* 120 to 150.
(2) *50 percent.* 144 to 180.
(3) *90 percent.* 168 to 200.
(4) *End point distillation.* 216 to 285.

■ 63. Section 21.130a is added to read as follows:

§ 21.130a Straight run gasoline.

(a) *General.* Straight run gasoline is a mixture consisting predominantly (greater than 60 percent by volume) of C_4, C_5, C_6, C_7 and/or C_8 hydrocarbons, and is either:
(1) A petroleum distillate coming straight from an atmospheric distillation unit without being cracked or reformed, or
(2) A condensate coming directly from an oil/gas recovery operation.
(b) *API gravity.* 72° minimum, 85° maximum.
(c) *Reid vapor pressure (PSI).* 15 maximum.
(d) *Sulfur.* 120 ppm maximum.
(e) *Benzene.* 1.1 percent by volume maximum.
(f) *Distillation (°F):*
(1) *10 percent.* 97 minimum, 158 maximum.
(2) *50 percent.* 250 maximum.
(3) *Final boiling point.* 437 maximum.

■ 64. Section 21.132 is revised to read as follows:

§ 21.132 Toluene.

(a) *Specific Gravity at 15.56°/15.56°C.* 0.80 to 0.90.
(b) *Boiling point (°C).* 110.6.
(c) *Distillation range (°C).* Not more than 1 percent by volume should distill below 109, and not less than 99 percent by volume below 112.
(d) *Odor.* Characteristic odor.

§ 21.141 [Amended]

■ 65. In § 21.141, the table is amended by:
■ a. Removing the entry for "Antiseptic, bathing solution (restricted).", and
■ b. Removing each reference to "2–C", "3–B", "6–B", "12–A", "17", "20", "22", "23–F", "27", "27–A", "27–B", "33", "35", "38–C", "39", "39–A", "42", and "46" in the column headed "Formulas authorized."

§ 21.151 [Amended]

■ 66. In § 21.151, the table is amended by:
■ a. Removing the entries for "Benzene"; "Bone oil (Dipple's oil)";

"Chloroform"; "Cinchonidine"; "Cinchonidine sulfate, N.F. IX"; "Gentian violet"; "Gentian violet, U.S.P"; "Mercuric iodide, red N.F. XI"; "Phenyl mercuric benzoate"; "Phenyl mercuric chloride, N.F. IX"; "Phenyl mercuric nitrate, N.F"; "Pine tar, U.S.P"; "Pyridine bases"; "Quassia, fluid extract, N.F. VII"; "Quinine, N.F. X"; "Quinine dihydrochloride, N.F. XI"; "Resorcinol (Resorcin), U.S.P"; "Salicylic acid, U.S.P"; "Sodium, metallic"; and "Thimerosal, U.S.P";

■ b. Removing each remaining reference to "2–C", "22", "23–F", "27", "27–A", "27–B", "38–C", "39", "39–A", "42", and "46"; and

■ c. Revising the entries for "Ethyl acetate", and "Toluene", and adding entries for "Alkylate", "Cornmint oil", "Cyclohexane", "Distilled lime oil", "Ethyl tertiary butyl ether", "Hexane", "*n*-Hexane", "High octane denaturant blend", "L(–)-Carvone", "Lemon oil", "Methyl tertiary butyl ether", "Naphtha", "Natural gasoline", "Peppermint oil, terpeneless.", "Poloxamer 407 N.F.", "Potassium hydroxide", "Raffinate", and "Straight run gasoline".

The revisions and additions read as follows:

§ 21.151 List of denaturants authorized for denatured spirits.

* * * * *

* * * * *

DENATURANTS AUTHORIZED FOR COMPLETELY DENATURED ALCOHOL (C.D.A), SPECIALLY DENATURED ALCOHOL (S.D.A.), AND SPECIALLY DENATURED RUM (S.D.R.)

* * * * *	
Alkylate	C.D.A. 20.
* * * * *	
Cornmint oil	S.D.A. 38–B.
Cyclohexane	S.D.A. 3–A.
* * * * *	
Distilled lime oil	S.D.A. 38–B.
* * * * *	
Ethyl acetate	C.D.A. 35; S.D.A. 29, 35–A.
* * * * *	
Ethyl tertiary butyl ether	C.D.A. 20.
* * * * *	
Hexane	S.D.A. 2–B.
n-Hexane	S.D.A. 2–B.
* * * * *	
High octane denaturant blend.	C.D.A. 20.

DENATURANTS AUTHORIZED FOR COMPLETELY DENATURED ALCOHOL (C.D.A), SPECIALLY DENATURED ALCOHOL (S.D.A.), AND SPECIALLY DENATURED RUM (S.D.R.)—Continued

* * * * *	
L(–)-Carvone	S.D.A. 38–B.
* * * * *	
Lemon oil	S.D.A. 38–B.
* * * * *	
Methyl tertiary butyl ether	C.D.A. 20.
* * * * *	
Naphtha	C.D.A. 20.
Natural gasoline	C.D.A. 20.
* * * * *	
Peppermint oil, terpeneless	S.D.A. 38–B.
* * * * *	
Poloxamer 407, N.F.	S.D.A. 38–F.
* * * * *	
Potassium hydroxide	S.D.A. 36.
* * * * *	
Raffinate	C.D.A. 20.
* * * * *	
Straight run gasoline	C.D.A. 20.
* * * * *	
Toluene	C.D.A. 12–A; S.D.A. 2–B.
* * * * *	

§ 21.161 [Amended]

■ 67. In § 21.161, the table is amended by removing the entries for "2–C", "3–B", "6–B", "12–A", "17", "20", "22", "23–F", "27", "27–A", "27–B", "33", "35 [3]", "35 [4]", "38–C", "39", "39–A", "42", and "46".

PART 27—IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

■ 68. The authority citation for part 27 is revised to read as follows:

Authority: 5 U.S.C. 552(a), 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5054, 5061, 5121–5124, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5555, 6302, 7805.

■ 69. Section 27.222 is added to read as follows:

§ 27.222 Importation of denatured spirits and fuel alcohol.

Denatured spirits and fuel alcohol are treated as spirits for purposes of this part and are subject to tax pursuant to § 27.40(a). The tax must be paid upon importation, with only two exceptions: Spirits may be withdrawn from customs custody free of tax for the use of the United States under subpart M of this part; and spirits may be withdrawn from customs custody and transferred to a distilled spirits plant, including a bonded alcohol fuel plant, without payment of tax under subpart L of this part. After transfer pursuant to subpart L, denatured spirits or fuel alcohol may be withdrawn free of tax in accordance with part 19 of this chapter if they meet the standards to conform either to a denatured spirits formula specified in part 21 of this chapter (for withdrawal from a regular distilled spirits plant) or a formula specified in § 19.746 of this chapter (for withdrawal from an alcohol fuel plant). Such withdrawal is permitted, even though the denaturation or rendering unfit for beverage use may have occurred, in whole or in part, in a foreign country. For purposes of this chapter, the denaturation or rendering unfit is deemed to have occurred at the distilled spirits plant (including the alcohol fuel plant), the proprietor of which is responsible for compliance with part 21 or § 19.746, as the case may be. Imported fuel alcohol shall also conform to the requirements of 27 CFR 19.742.

PART 28—EXPORTATION OF ALCOHOL

■ 70. The authority citation for part 28 continues to read as follows:

Authority: 5 U.S.C. 552(a); 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5041, 5051, 5054, 5061, 5121, 5122, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5555, 6302, 7805; 27 U.S.C. 203, 205, 44 U.S.C. 3504(h).

■ 71. Section 28.157 is added to read as follows:

§ 28.157 Exportation by dealer in specially denatured spirits.

A dealer in specially denatured spirits who holds a permit under part 20 of this chapter may export specially denatured spirits in accordance with § 20.183 of this chapter.

Signed: December 12, 2012.

John J. Manfreda,

Administrator.

Approved: April 14, 2013.

Timothy E. Skud,

Deputy Assistant Secretary (Tax, Trade and Tariff Policy).

[FR Doc. 2013–15262 Filed 6–26–13; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Parts 40, 41, and 44

[Docket No. TTB–2013–0006; Notice No. 137; Re: T.D. TTB–115; T.D. ATF–421; T.D. ATF–422; ATF Notice Nos. 887 and 888]

RIN 1513–AB37

Importer Permit Requirements for Tobacco Products and Processed Tobacco, and Other Requirements for Tobacco Products, Processed Tobacco and Cigarette Papers and Tubes

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Elsewhere in this issue of the **Federal Register**, by means of a temporary rule, the Alcohol and Tobacco Tax and Trade Bureau (TTB) is amending its regulations pertaining to permits for importers of tobacco products and processed tobacco by extending the duration of new permits from three years to five years. Based on its experience in the administration and enforcement of importer permits over the past decade, TTB believes that it can gain administrative efficiencies and reduce the burden on industry members, while still meeting the purposes of the limited-duration permit, by extending the permit duration to five years. That temporary rule also makes several technical corrections by amending the definition of "Manufacturer of tobacco products" to reflect a recent statutory change, and by amending a reference to the sale price of large cigars to incorporate a clarification published in a prior TTB temporary rule. Finally, the temporary rule published elsewhere in this issue incorporates and reissues TTB regulations pertaining to importer permit requirements for tobacco products, and minimum manufacturing and marking requirements for tobacco products and cigarette papers and tubes, and, as a result, that temporary rule replaces temporary regulations originally published in 1999. The text of the regulations in that temporary rule published elsewhere in this issue of the **Federal Register** serves as the text of the proposed regulations.

DATES: Comments must be received on or before August 26, 2013.

ADDRESSES: You may send comments on this notice to one of the following addresses:

- *http://www.regulations.gov:* (via the online comment form for this notice as posted within Docket No. TTB–2013–0006 at "Regulations.gov," the Federal e-rulemaking portal);
- *Mail:* Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; or
- *Hand Delivery/Courier in Lieu of Mail:* Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Suite 200E, Washington, DC 20005.

See the Public Participation section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

You may view copies of this notice, any comments received, and the related temporary rule at *http://www.regulations.gov* within Docket No. TTB–2013–0006. A direct link to that Regulations.gov docket is also available under Notice No. 137 on the TTB Web site at *http://www.ttb.gov/tobacco/tobacco-rulemaking.shtml*. You also may view copies of these documents by appointment at the TTB Information Resource Center, 1310 G Street NW., Washington, DC 20220. Please call 202–453–2270 to make an appointment.

FOR FURTHER INFORMATION CONTACT: For questions concerning this document, contact David Berenbaum, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau (202–453–1039, ext. 100 or *TobaccoRegs@ttb.gov*).

SUPPLEMENTARY INFORMATION:

Background

In the Rules and Regulations section of this issue of the **Federal Register**, the Alcohol and Tobacco Tax and Trade Bureau (TTB) is amending regulations pertaining to permits for importers of tobacco products and processed tobacco by extending the duration of new permits from three years to five years. TTB is also issuing a temporary rule reissuing and updating regulatory amendments to implement certain provisions of the Balanced Budget Act of 1997 (BBA) (Pub. L. 105–33, 111 Stat. 672). The temporary rule updates and reissues TTB regulations pertaining to importer permit requirements for tobacco products, and minimum manufacturing and marking requirements for tobacco products and cigarette papers and tubes. The regulations contained in the temporary rule and proposed in this document replace temporary regulations issued under T.D. ATF–421 and T.D. ATF–422, which were originally published in 1999 by the former Bureau of Alcohol, Tobacco and Firearms (ATF). Finally, the temporary rule makes several technical corrections by amending the definition of "Manufacturer of tobacco products" to reflect a recent statutory change, and amending references to the sale price of large cigars to incorporate a clarification published in a prior TTB temporary rule.

The temporary regulations involve amendments to parts 40, 41, and 44 of the TTB regulations (27 CFR parts 40, 41, and 44). The text of the temporary regulations serves as the text of these proposed regulations. The preamble to the temporary regulations explains the proposed regulations.

Public Participation

Comments Invited

TTB invites comments from interested members of the public on this proposed rulemaking. Please submit your comments by the closing date shown above in this notice. Your comments must reference Notice No. 137 and include your name and mailing address. Your comments also must be made in English, be legible, and be written in language acceptable for public disclosure. TTB does not acknowledge receipt of comments, and TTB considers all comments as originals.

Submitting Comments

You may submit comments on this notice by one of the following three methods:

- *Federal e-Rulemaking Portal:* You may electronically submit comments on this notice through "Regulations.gov," the Federal e-rulemaking portal. A direct link to the Regulations.gov docket containing this notice, Docket No. TTB–2013–0006, and its related comment submission form is available on the TTB Web site at *http://www.ttb.gov/tobacco/tobacco-rulemaking.shtml* under Notice No. 137. You may also reach this notice and its related comment form via the Regulations.gov search page at *http://www.regulations.gov*. Supplemental files may be attached to comments submitted via Regulations.gov. For information on how to use Regulations.gov, visit the site and click on the "Help" tab.
- *Mail:* You may send written comments to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005.
- *Hand Delivery/Courier:* You may hand-carry your comments or have them hand-carried to the Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Suite 200E, Washington, DC 20005.

If you are commenting on behalf of an association, business, or other entity, your comment must include the entity's name as well as your name and position title. If you comment via *http://www.regulations.gov*, please enter the entity's name in the "Organization" blank of the comment form. If you comment via mail, please submit your entity's comment on letterhead.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

Confidentiality

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

Public Disclosure

On the Federal e-rulemaking portal, Regulations.gov, TTB will post, and you may view, copies of this notice, any electronic or mailed comments TTB receives about this proposal, and the related temporary rule within Docket No. TTB–2013–0006. A direct link to that Regulations.gov docket is available on the TTB Web site at *http://www.ttb.gov/tobacco/tobacco-rulemaking.shtml* under Notice No. 137. You may also reach the relevant docket through the Regulations.gov search page at *http://www.regulations.gov*.

All posted comments will display the commenter's name, organization (if any), city, and State, and, in the case of mailed comments, all address information, including email addresses. TTB may omit voluminous attachments or material that TTB considers unsuitable for posting.

You also may view copies of this notice, any electronic or mailed comments TTB receives about this proposal, and the related temporary rule by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220. You may also obtain copies at 20 cents per 8.5- × 11-inch page. Contact TTB's information specialist at the above address or by telephone at 202–453–2270 to schedule an appointment or to request copies of comments or other materials.

Regulatory Analysis

Since the regulatory text proposed in this notice of proposed rulemaking is identical to that contained in the companion temporary rule published elsewhere in this issue of the **Federal Register**, the analysis contained in the preamble of the temporary rule concerning the Regulatory Flexibility Act, the Paperwork Reduction Act, the inapplicability of prior notice and comment, and Executive Order 12866 also apply to this proposed rule.

Drafting Information

Kara T. Fontaine and other Regulations and Rulings Division staff, Alcohol and Tobacco Tax and Trade Bureau, drafted this document.

List of Subjects

27 CFR Part 40

Cigars and cigarettes, Claims, Electronic funds transfers, Excise taxes, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Tobacco.

27 CFR Part 41

Cigars and cigarettes, Claims, Customs duties and inspection, Electronic fund transfers, Excise taxes, Imports, Labeling, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Surety bonds, Tobacco, Virgin Islands, Warehouses.

27 CFR Part 44

Aircraft, Armed forces, Cigars and cigarettes, Claims, Customs duties and inspection, Excise taxes, Exports, Foreign trade zones, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Tobacco, Vessels, Warehouses.

Proposed Amendments to the Regulations

For the reasons discussed in the preamble, TTB proposes to amend 27 CFR, chapter I, parts 40, 41, and 44 as follows:

PART 40—MANUFACTURE OF TOBACCO PRODUCTS, CIGARETTE PAPERS AND TUBES, AND PROCESSED TOBACCO

■ 1. The authority citation for part 40 is revised to read as follows:

Authority: 26 U.S.C. 5701–5705, 5711–5713, 5721–5723, 5731, 5741, 5751, 5753, 5761–5763, 6061, 6065, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6404, 6423, 6676, 6806, 7011, 7212, 7325, 7342, 7502, 7503, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

■ 2. [The proposed amendatory instructions and the proposed regulatory text for part 40 are the same as the amendatory instructions and the amendatory regulatory text set forth in the temporary rule on this subject published in the Rules and Regulations section of this issue of the **Federal Register**.]

PART 41—IMPORTATION OF TOBACCO PRODUCTS, CIGARETTE PAPERS AND TUBES, AND PROCESSED TOBACCO

■ 3. The authority citation for part 41 continues to read as follows:

Authority: 26 U.S.C. 5701–5705, 5708, 5712, 5713, 5721–5723, 5741, 5754, 5761–5763, 6301, 6302, 6313, 6404, 7101, 7212, 7342, 7606, 7651, 7652, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

■ 4. [The proposed amendatory instructions and the proposed regulatory text for part 41 are the same as the amendatory instructions and the amendatory regulatory text set forth in the temporary rule on this subject published in the Rules and Regulations section of this issue of the **Federal Register**.]

PART 44—EXPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX OR WITH DRAWBACK OF TAX

■ 5. The authority citation for part 44 continues to read as follows:

Authority: 26 U.S.C. 5701–5705, 5711–13, 5721–5723, 5731, 5741, 5751, 5754, 6061, 6065, 6151, 6402, 6404, 6806, 7011, 7212, 7342, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

■ 6. [The proposed amendatory instructions and the proposed regulatory text for part 44 are the same as the amendatory instructions and the amendatory regulatory text set forth in the temporary rule on this subject published in the Rules and Regulations section of this issue of the **Federal Register**.]

Signed: April 10, 2013.

John J. Manfreda,

Administrator.

Approved: April 11, 2013.

Timothy E. Skud,

Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

[FR Doc. 2013–15248 Filed 6–26–13; 8:45 am]

BILLING CODE 4810–31–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R02–OAR–2012–0889; FRL–9827–3]

Approval and Promulgation of Air Quality Implementation Plans; State of New Jersey; Redesignation of Areas for Air Quality Planning Purposes and Approval of the Associated Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a redesignation request and State Implementation Plan (SIP) revision submitted by the State of New Jersey. The New Jersey Department of Environmental Protection (NJDEP) is requesting that EPA redesignate the New Jersey portion of the New York-N.New Jersey-Long Island, NY-NJ-CT nonattainment area, and the New Jersey portion of the Philadelphia-Wilmington, PA-NJ-DE nonattainment area, from nonattainment to attainment for the 1997 annual and the 2006 24-hour Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS). In conjunction with its redesignation request, New Jersey submitted a SIP revision containing a maintenance plan for the areas that provides for continued maintenance of the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS. The maintenance plan includes the 2007 attainment year emissions inventory that EPA is proposing to approve in this rulemaking in accordance with the requirements of the Clean Air Act (CAA).

EPA is also proposing to approve a supplement to the 2007 attainment year emission inventory previously submitted by the State as part of the SIP revision. EPA is proposing that the inventories for ammonia (NH_3) and Volatile Organic Compounds (VOC) that were submitted as part of the supplement, in conjunction with the inventories for nitrogen oxides (NO_X), direct $PM_{2.5}$, and sulfur dioxide (SO_2) that were previously submitted, meet the comprehensive emissions inventory requirement of section 172(c)(3) of the CAA.

Additionally, EPA is proposing to approve the 2009 and 2025 motor vehicle emissions budgets for $PM_{2.5}$ and NO_X.

EPA previously determined that the New Jersey portions of the New York-N.New Jersey-Long Island, NY-NJ-CT and Philadelphia-Wilmington, PA-nonattainment areas have attained the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS. In this action, EPA is proposing to approve the request for redesignation for the 1997 annual and 24-hour 2006 $PM_{2.5}$ NAAQS, the maintenance plan, and the 2007 attainment year inventory based on EPA's determination that the areas have met the redesignation requirements set forth in the CAA.

DATES: Comments must be received on or before July 29, 2013.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R02–OAR–2012–0889 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: Ruvo.Richard@epa.gov.*
3. *Fax:* 212–637–3901.
4. *Mail:* Richard Ruvo, Chief, Air Planning Section, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.
5. *Hand Delivery or Courier:* Deliver your comments to: Richard Ruvo, Chief, Air Planning Section, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official business hours is Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R02–OAR–2012–0889. 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 whose disclosure is restricted by statute. Do not submit through *www.regulations.gov,* or email, information that you consider to be CBI or otherwise protected. 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, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Raymond Forde (*forde.raymond@epa.gov*) concerning emission inventories and Kenneth Fradkin (*fradkin.kenneth@epa.gov*) concerning other portions of the SIP revision, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4249.

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

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I. What are the actions EPA is proposing to take?

On December 26, 2012, the State of New Jersey, through NJDEP, submitted a request to redesignate the New Jersey portion of the New York-N.New Jersey-Long Island, NY-NJ-CT nonattainment area ("NY-NJ-CT nonattainment area"), and the New Jersey portion of the Philadelphia-Wilmington, PA-NJ-DE nonattainment area ("PA-NJ-DE nonattainment area") from nonattainment to attainment for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. Concurrently, NJDEP submitted a maintenance plan for the areas as a SIP revision to ensure continued attainment. In a supplemental submission to EPA on May 3, 2013, the State of New Jersey submitted NH_3 and VOC emissions inventories to supplement the emissions inventories that had been submitted on December 26, 2012.

EPA is proposing to take several actions pursuant to the redesignation of the New Jersey portion of the NY-NJ-CT and the PA-NJ-DE nonattainment areas for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. EPA is proposing to find that the New Jersey portion of the NY-NJ-CT nonattainment area (hereafter referred to as the Northern New Jersey $PM_{2.5}$ "or NNJ" nonattainment area) and the New Jersey portion of the PA-NJ-DE nonattainment area (hereafter referred to as the Southern New Jersey $PM_{2.5}$ "or SNJ" nonattainment area) meet the requirements for redesignation under 107(d)(3)(E) of the CAA. EPA is thus proposing to approve New Jersey's request to change the legal definition of the NNJ and SNJ nonattainment areas from nonattainment to attainment. This action does not impact the New York and Connecticut portions of the NY-NJ-CT nonattainment area, or the Pennsylvania and Delaware portions of the PA-NJ-DE nonattainment area. EPA may take separate actions on those portions of the nonattainment areas in a separate rulemaking.

EPA is also proposing to approve the maintenance plan for the NNJ and SNJ nonattainment areas as a revision to the New Jersey SIP. Such approval is one of the CAA criteria for redesignation of an area to attainment. The maintenance plan is designed to ensure continued attainment in the NNJ and SNJ nonattainment areas for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS for 10 years after redesignation. The maintenance plan includes the 2007 attainment year, 2017 interim year, and 2025 end year projection emission inventories. EPA is also proposing to approve the 2009 and 2025 motor vehicle emissions budgets for $PM_{2.5}$ and Nitrogen Oxides (NO_X).

In this proposed redesignation, EPA takes into account the D.C. Circuit January 4, 2013 decision remanding to EPA the "Final Clean Air Fine Particle Implementation Rule" (72 FR 20586, April 25, 2007) and the "Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)" final rule (73 FR 28321, May 16, 2008), *Natural Resources Defense Council* v. *EPA*, 706 F.3d 428 (D.C. Cir. 2013).

EPA's analysis for these proposed actions is discussed in sections V, VI and VII of today's proposed rulemaking action.

II. What is the background for EPA's proposed actions?

A. General

The first air quality standards for $PM_{2.5}$ were promulgated on July 18, 1997, at 62 FR 38652. EPA promulgated an annual standard at a level of 15 micrograms per cubic meter ($\mu g/m^3$), based on a three-year average of annual mean $PM_{2.5}$ concentrations. In the same rulemaking, EPA promulgated a 24-hour standard of 65 $\mu g/m^3$, based on a three-year average of the 98th percentile of 24-hour concentrations. On October 17, 2006, at 71 FR 61144, EPA retained the annual average standard at 15 $\mu g/m^3$ but revised the 24-hour standard to 35 $\mu g/m^3$, based again on the three-year average of the 98th percentile of 24-hour concentrations.

On January 5, 2005, at 70 FR 944, and supplemented on April 14, 2005, at 70 FR 19844, EPA designated the NY-NJ-CT and PA-NJ-DE nonattainment areas as nonattainment for the 1997 $PM_{2.5}$ air quality standards. In that action, EPA defined the NNJ nonattainment area to include Bergen, Essex, Hudson, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, and Union Counties; and defined the SNJ nonattainment area to include Burlington, Camden, and Gloucester Counties. On November 13, 2009, at 74 FR 58688, EPA promulgated designations for the 24-hour standard set in 2006, designating the NY-NJ-CT nonattainment area and the PA-NJ-DE nonattainment area as nonattainment for the 2006 24-hour $PM_{2.5}$ NAAQS. The nonattainment area boundaries for the NNJ and SNJ nonattainment areas for the 2006 $PM_{2.5}$ NAAQS were identical to the boundaries for the 1997 $PM_{2.5}$ NAAQS, containing the same counties as listed above. EPA did not promulgate designations for the annual average NAAQS promulgated in 2006 since that NAAQS was essentially identical to the 1997 annual $PM_{2.5}$ NAAQS. Today's action addresses the designation for the annual NAAQS promulgated in 1997, and the 24-hour NAAQS promulgated in 2006, for the NNJ and the SNJ nonattainment areas.

In the final rulemaking action dated November 15, 2010 (75 FR 69589), EPA determined, pursuant to CAA section 179(c), that the entire NY-NJ-CT nonattainment area had attained the 1997 annual $PM_{2.5}$ NAAQS, based upon quality assured, quality controlled, and certified ambient air monitoring data for the period of 2007–2009. On May 16, 2012 (77 FR 28782), EPA determined that the entire PA-NJ-DE nonattainment area was attaining the 1997 annual $PM_{2.5}$ NAAQS, based upon quality assured, quality controlled, and certified ambient air monitoring data for the 2007–2009 and 2008–2010 monitoring periods.

EPA finalized, on December 31, 2012 (77 FR 76867), the determination that the entire NY-NJ-CT nonattainment area had attained the 2006 24-hour $PM_{2.5}$ NAAQS, based upon quality assured, quality controlled, and certified ambient air monitoring data that showed that the area had monitored attainment of the 2006 24-hour $PM_{2.5}$ NAAQS for the 2007–2009 and 2008–2010 monitoring periods. On January 7, 2013 (78 FR 882), EPA finalized the determination that the PA-NJ-DE nonattainment area had attained the 2006 24-hour $PM_{2.5}$ NAAQS, based upon quality assured, quality controlled, and certified ambient air monitoring data that showed that the areas had monitored attainment of the 2006 24-hour $PM_{2.5}$ NAAQS for the 2008–2010 and 2009–2011 monitoring periods.

The 3-year ambient air quality data for the last three year monitoring periods for the 2007–2009, 2008–2010, and 2009–2011 indicated no violations for

the 1997 annual $PM_{2.5}$ and 2006 $PM_{2.5}$ NAAQS. Preliminary design values for 2010–2012 also indicate no violations for the 1997 annual $PM_{2.5}$ and 2006 $PM_{2.5}$ NAAQS. As a result of the monitoring data continuing to show attainment, on December 26, 2012 New Jersey requested redesignation of the NNJ and the SNJ $PM_{2.5}$ nonattainment areas to attainment for the 1997 annual $PM_{2.5}$ and 2006 24-hour $PM_{2.5}$ NAAQS. Under the CAA, nonattainment areas may be redesignated to attainment if sufficient, complete, quality-assured data is available for the Administrator to determine that the area has attained the standard and the area meets the other CAA redesignation requirements under 107(d)(3)(E).

B. Clean Air Interstate Rule (CAIR) and Cross State Air Pollution Rule (CSAPR or the Transport Rule)

On May 12, 2005, EPA published CAIR, which requires significant reductions in emissions of SO_2 and NO_X from electric generating units (EGUs) to limit the interstate transport of these pollutants and the ozone and $PM_{2.5}$ they form in the atmosphere. *See* 70 FR 25162. The D.C. Circuit initially vacated CAIR, *North Carolina* v. *EPA*, 531 F.3d 896 (D.C. Cir. 2008), but ultimately remanded the rule to EPA without vacatur to preserve the environmental benefits provided by CAIR, *North Carolina* v. *EPA*, 550 F.3d 1176, 1178 (D.C. Cir. 2008). In response to the D.C. Circuit's decision, EPA issued the Transport Rule, also known as CSAPR, to address interstate transport of NO_X and SO_2 in the eastern United States. *See* 76 FR 48208 (August 8, 2011).

On August 21, 2012, the D.C. Circuit issued a decision to vacate CSAPR. In that decision, it also ordered EPA to continue administering CAIR "pending the promulgation of a valid replacement." *EME Homer City*, 696 F.3d at 38. The D.C. Circuit denied all petitions for rehearing on January 24, 2013. EPA and other parties have filed petitions for certiorari to the U.S. Supreme Court, but those petitions have not been acted on to date. Nonetheless, EPA intends to continue to act in accordance with the *EME Homer City* opinion.

As explained below, EPA proposes that New Jersey has demonstrated that the attainment of the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS will be maintained with or without the implementation of CAIR or CSAPR. New Jersey's maintenance plan does not include the emission reductions from either program in the permanent and enforceable Federal and State control measures needed for attainment and continued maintenance. In addition, air quality modeling analysis conducted during the CSAPR rulemaking process also demonstrated that the counties in the NY-NJ-CT and PA-NJ-DE nonattainment areas will have $PM_{2.5}$ levels below the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS in both 2012 and 2014 without taking into account emissions reductions from CAIR or CSAPR. *See* "Air Quality Modeling Final Rule Technical Support Document" [1], App. B, B–18, B–19. This modeling is also available in the docket for this proposed redesignation.

III. What are the criteria for redesignation?

Under the CAA, designations can be revised if sufficient data is available to warrant such revisions. Section 107(d)(3)(E) of the CAA identifies five specific requirements that an area must meet in order to be redesignated from nonattainment to attainment.

1. The area must have attained the applicable NAAQS.
2. The area must meet all applicable requirements under section 110 and part D of the CAA.
3. The area must have a fully approved SIP under section 110 (k) of the CAA.
4. The air quality improvement must be permanent and enforceable.
5. The area must have a fully approved maintenance plan pursuant to section 175A of the CAA.

EPA has provided guidance on redesignation in the General Preamble for the Implementation of title I of the CAA Amendments of 1990 (April 16, 1992, 57 FR 13498, and supplemented on April 28, 1992, 57 FR 18070) and has provided further guidance on processing redesignation requests in the following documents:

1. "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (hereafter referred to as the "Calcagni Memorandum");
2. "State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines," Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992;
3. "Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment," Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994; and
4. "Implementation Guidance for the 2006 24-hour $PM_{2.5}$ NAAQS," Memorandum from Stephen D. Page, Director, Office of Air Quality Planning and Standards, March 2, 2012.

[1] The document is available at *http://www.epa.gov/crossstaterule/pdfs/AQModeling.pdf.*

IV. What is the effect of EPA's proposed actions?

EPA's approval of the redesignation request, if made final, would change the official designation of the NNJ and the SNJ $PM_{2.5}$ nonattainment areas to attainment for the 1997 annual $PM_{2.5}$ and 2006 24-hour $PM_{2.5}$ NAAQS, found at 40 CFR part 81. It would incorporate into the New Jersey SIP a maintenance plan ensuring continued attainment of the 1997 annual $PM_{2.5}$ and 2006 24-hour $PM_{2.5}$ NAAQS until 2025. The maintenance plan includes, among other elements, contingency measures to remedy any future violations, should they occur, of the 1997 annual $PM_{2.5}$ and 2006 24-hour $PM_{2.5}$ NAAQS. Approval of the 2007 base year emissions inventory, which is part of the maintenance plan, will satisfy the inventory requirements under section 172(c)(3) of the CAA.

V. What is the effect of the January 4, 2013 D.C. Circuit decision regarding $PM_{2.5}$ implementation under subpart 4?

A. Background

As discussed in section I, on January 4, 2013, in *Natural Resources Defense Council* v. *EPA*, the D.C. Circuit remanded to EPA the "Final Clean Air Fine Particle Implementation Rule" (72 FR 20586, April 25, 2007) and the "Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)" final rule (73 FR 28321, May 16, 2008) (collectively, "1997 $PM_{2.5}$ Implementation Rule"). 706 F.3d 428 (D.C. Cir. 2013). The Court found that EPA erred in implementing the 1997 $PM_{2.5}$ NAAQS pursuant to the general implementation provisions of subpart 1 of part D of Title I of the CAA, rather than the particulate-matter-specific provisions of subpart 4 of part D of Title I. Although the Court's ruling did not directly address the 2006 $PM_{2.5}$ standard, EPA is taking into account the Court's position on subpart 4 and the 1997 $PM_{2.5}$ standard in evaluating redesignations for the 2006 standard.

B. Proposal on This Issue

EPA is proposing to determine that the Court's January 4, 2013 decision does not prevent EPA from redesignating the NNJ and SNJ nonattainment areas to attainment for the 1997 and 2006 $PM_{2.5}$ NAAQS. Even in light of the Court's decision,

redesignation for this area is appropriate under the CAA and EPA's longstanding interpretations of the CAA's provisions regarding redesignation. EPA first explains its longstanding interpretation that requirements that are imposed, or that become due, after a complete redesignation request is submitted for an area that is attaining the standard, are not applicable for purposes of evaluating a redesignation request.

Second, EPA then shows that, even if EPA applies the subpart 4 requirements to the New Jersey redesignation request and disregards the provisions of its 1997 $PM_{2.5}$ implementation rule recently remanded by the Court, the State's request for redesignation of this area still qualifies for approval. EPA's discussion takes into account the effect of the Court's ruling on the area's maintenance plan, which EPA views as approvable when subpart 4 requirements are considered.

1. Applicable Requirements for Purposes of Evaluating the Redesignation Request

With respect to the 1997 $PM_{2.5}$ Implementation Rule, the Court's January 4, 2013 ruling rejected EPA's reasons for implementing the $PM_{2.5}$ NAAQS solely in accordance with the provisions of subpart 1, and remanded that matter to EPA, so that it could address implementation of the 1997 $PM_{2.5}$ NAAQS under subpart 4 of part D of the CAA, in addition to subpart 1. For the purposes of evaluating New Jersey's redesignation request for the areas, to the extent that implementation under subpart 4 would impose additional requirements for areas designated nonattainment, EPA believes that those requirements are not "applicable" for the purposes of CAA section 107(d)(3)(E), and thus EPA is not required to consider subpart 4 requirements with respect to the New Jersey redesignation. Under its longstanding interpretation of the CAA, EPA has interpreted section 107(d)(3)(E) to mean, as a threshold matter, that the part D provisions which are "applicable" and which must be approved in order for EPA to redesignate an area include only those which came due prior to a state's submittal of a complete redesignation request. *See* Calcagni memorandum referenced in section III. *See also* SIP Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992," Memorandum from Michael Shapiro, Acting Assistant Administrator, Air and Radiation, September 17, 1993 (Shapiro memorandum); Final Redesignation of Detroit-Ann Arbor, (60 FR 12459, 12465–66, March 7, 1995); Final Redesignation of St. Louis, Missouri, (68 FR 25418, 25424–25427, May 12, 2003); *Sierra Club* v. *EPA*, 375 F.3d 537, 541 (7th Cir. 2004) (upholding EPA's redesignation rulemaking applying this interpretation and expressly rejecting Sierra Club's view that the meaning of "applicable" under the statute is "whatever should have been in the plan at the time of attainment rather than whatever actually was in the plan and already implemented or due at the time of attainment").[2] In this case, at the time that New Jersey submitted its redesignation request, requirements under subpart 4 were not due, and indeed, were not yet known to apply.

EPA's view that, for purposes of evaluating the NNJ and SNJ redesignation, the subpart 4 requirements were not due at the time the State submitted the redesignation request is in keeping with the EPA's interpretation of subpart 2 requirements for subpart 1 ozone areas redesignated subsequent to the D.C. Circuit's decision in *South Coast Air Quality Mgmt. Dist.* v. *EPA*, 472 F.3d 882 (D.C. Cir. 2006). In *South Coast*, the Court found that EPA was not permitted to implement the 1997 8-hour ozone standard solely under subpart 1, and held that EPA was required under the statute to implement the standard under the ozone-specific requirements of subpart 2 as well. Subsequent to the *South Coast* decision, in evaluating and acting upon redesignation requests for the 1997 8-hour ozone standard that were submitted to EPA for areas under subpart 1, EPA applied its longstanding interpretation of the CAA that "applicable requirements", for purposes of evaluating a redesignation, are those that had been due at the time the redesignation request was submitted. *See, e.g.*, Proposed Redesignation of Manitowoc County and Door County Nonattainment Areas (75 FR 22047, 22050, April 27, 2010). In those actions, EPA therefore did not consider subpart 2 requirements to be "applicable" for the purposes of evaluating whether the area should be redesignated under section 107(d)(3)(E).

EPA's interpretation derives from the provisions of CAA section 107(d)(3). Section 107(d)(3)(E)(v) states that, for an area to be redesignated, a state must meet "all requirements 'applicable' to the area under section 110 and part D". Section 107(d)(3)(E)(ii) provides that the EPA must have fully approved the "applicable" SIP for the area seeking redesignation. These two sections read together support EPA's interpretation of "applicable" as only those requirements that came due prior to submission of a complete redesignation request. First, holding states to an ongoing obligation to adopt new CAA requirements that arose after the state submitted its redesignation request, in order to be redesignated, would make it problematic or impossible for EPA to act on redesignation requests in accordance with the 18-month deadline Congress set for EPA action in section 107(d)(3)(D). If "applicable requirements" were interpreted to be a continuing flow of requirements with no reasonable limitation, states, after submitting a redesignation request, would be forced continuously to make additional SIP submissions that in turn would require EPA to undertake further notice-and-comment rulemaking actions to act on those submissions. This would create a regime of unceasing rulemaking that would delay action on the redesignation request beyond the 18-month timeframe provided by the Act for this purpose.

Second, a fundamental premise for redesignating a nonattainment area to attainment is that the area has attained the relevant NAAQS due to emission reductions from existing controls. Thus, an area for which a redesignation request has been submitted would have already attained the NAAQS as a result of satisfying statutory requirements that came due prior to the submission of the request. Absent a showing that unadopted and unimplemented requirements are necessary for future maintenance, it is reasonable to view the requirements applicable for purposes of evaluating the redesignation request as including only those SIP requirements that have already come due. These are the requirements that led to attainment of the NAAQS. To require, for redesignation approval, that a state also satisfy additional SIP requirements coming due after the state submits its complete redesignation request, and while EPA is reviewing it, would compel the state to do more than is necessary to attain the NAAQS, without a showing that the additional requirements are necessary for maintenance.

In the context of this redesignation, the timing and nature of the Court's January 4, 2013 decision in *NRDC* v. *EPA* compound the consequences of imposing requirements that come due

[2] Applicable requirements of the CAA that come due subsequent to the area's submittal of a complete redesignation request remain applicable until a redesignation is approved, but are not required as a prerequisite to redesignation. Section 175A(c) of the CAA.

after the redesignation request is submitted. The State submitted its redesignation request on December 26, 2012, but the Court did not issue its decision remanding EPA's 1997 $PM_{2.5}$ implementation rule concerning the applicability of the provisions of subpart 4 until January 2013.

To require the State's fully-completed and pending redesignation request to comply now with requirements of subpart 4 that the Court announced only in January, 2013, would be to give retroactive effect to such requirements when the State had no notice that it was required to meet them. The D.C. Circuit recognized the inequity of this type of retroactive impact in *Sierra Club* v. *Whitman*, 285 F.3d 63 (D.C. Cir. 2002),[3] where it upheld the District Court's ruling refusing to make retroactive EPA's determination that the St. Louis area did not meet its attainment deadline. In that case, petitioners urged the Court to make EPA's nonattainment determination effective as of the date that the statute required, rather than the later date on which EPA actually made the determination. The Court rejected this view, stating that applying it "would likely impose large costs on States, which would face fines and suits for not implementing air pollution prevention plans . . . even though they were not on notice at the time." *Id.* at 68. Similarly, it would be unreasonable to penalize the State of New Jersey by rejecting its redesignation request for an area that is already attaining the 1997 and 2006 $PM_{2.5}$ standards and that met all applicable requirements known to be in effect at the time of the request. For EPA now to reject the redesignation request solely because the state did not expressly address subpart 4 requirements of which it had no notice, would inflict the same unfairness condemned by the Court in *Sierra Club* v. *Whitman*.

2. Subpart 4 Requirements and New Jersey Redesignation Request

Even if EPA were to take the view that the Court's January 4, 2013 decision requires that, in the context of pending redesignations, subpart 4 requirements were due and in effect at the time the State submitted its redesignation request, EPA proposes to determine that the NNJ and SNJ areas still qualify for redesignation to attainment. As explained below, EPA believes that the redesignation request for the NNJ and SNJ areas, though not expressed in terms of subpart 4 requirements, substantively meets the requirements of that subpart for purposes of redesignating the area to attainment.

With respect to evaluating the relevant substantive requirements of subpart 4 for purposes of redesignating the NNJ and SNJ areas, EPA notes that subpart 4 incorporates components of subpart 1 of part D, which contains general air quality planning requirements for areas designated as nonattainment. *See* section 172(c). Subpart 4 itself contains specific planning and scheduling requirements for PM_{10}[4] nonattainment areas, and under the Court's January 4, 2013 decision in *NRDC* v. *EPA*, these same statutory requirements also apply for $PM_{2.5}$ nonattainment areas. EPA has longstanding general guidance that interprets the 1990 amendments to the CAA, making recommendations to states for meeting the statutory requirements for SIPs for nonattainment areas. *See*, "State Implementation Plans; General Preamble for the Implementation of Title I of the Clear Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992) (the "General Preamble"). In the General Preamble, EPA discussed the relationship of subpart 1 and subpart 4 SIP requirements, and pointed out that subpart 1 requirements were to an extent "subsumed by, or integrally related to, the more specific PM–10 requirements." 57 FR 13538 (April 16, 1992). The subpart 1 requirements include, among other things, provisions for attainment demonstrations, reasonably available control measures (RACM), reasonable further progress (RFP), emissions inventories, and contingency measures.

For the purposes of this redesignation, in order to identify any additional requirements which would apply under subpart 4, we are considering the NNJ and SNJ areas to be "moderate" $PM_{2.5}$ nonattainment areas. Under section 188 of the CAA, all areas designated nonattainment areas under subpart 4 would initially be classified by operation of law as "moderate" nonattainment areas, and would remain moderate nonattainment areas unless, and until EPA reclassifies the area as a "serious" nonattainment area. Accordingly, EPA believes that it is appropriate to limit the evaluation of the potential impact of subpart 4 requirements to those that would be applicable to moderate nonattainment areas. Sections 189(a) and (c) of subpart 4 apply to moderate nonattainment areas and include the following: (1) An approved permit program for construction of new and modified major stationary sources (section 189(a)(1)(A)); (2) an attainment demonstration (section 189(a)(1)(B)); (3) provisions for RACM (section 189(a)(1)(C)); and (4) quantitative milestones demonstrating RFP toward attainment by the applicable attainment date (section 189(c)).

The permit requirements of subpart 4, as contained in section 189(a)(1)(A), refer to and apply the subpart 1 permit provisions requirements of sections 172 and 173 to PM_{10}, without adding to them. Consequently, EPA believes that section 189(a)(1)(A) does not itself impose for redesignation purposes any additional requirements for moderate areas beyond those contained in subpart 1. In any event, in the context of redesignation, EPA has long relied on the interpretation that a fully approved nonattainment new source review program is not considered an applicable requirement for redesignation, provided the area can maintain the standard with a prevention of significant deterioration (PSD) program after redesignation. A detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, "Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment." *See also* rulemakings for Detroit, Michigan (60 FR 12467–12468, March 7, 1995); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Louisville, Kentucky (66 FR 53665, October 23, 2001); and Grand Rapids, Michigan (61 FR 31834–31837, June 21, 1996).

With respect to the specific attainment planning requirements under subpart 4,[5] when EPA evaluates a redesignation request under either subpart 1 and/or 4, any area that is attaining the $PM_{2.5}$ standard is viewed as having satisfied the attainment planning requirements for these subparts. For redesignations, EPA has for many years interpreted attainment-linked requirements as not applicable for areas attaining the standard. In the General Preamble, EPA stated that:

> The requirements for RFP will not apply in evaluating a request for redesignation to attainment since, at a minimum, the air quality data for the area must show that the area has already attained. Showing that the

[3] *Sierra Club* v. *Whitman* was discussed and distinguished in a recent D.C. Circuit decision that addressed retroactivity in a quite different context, where, unlike the situation here, EPA sought to give its regulations retroactive effect. *National Petrochemical and Refiners Ass'n* v. *EPA*, 630 F.3d 145, 163 (D.C. Cir. 2010), rehearing denied 643 F.3d 958 (D.C. Cir. 2011), cert denied 132 S. Ct. 571 (2011).

[4] PM_{10} refers to particulates nominally 10 micrometers in diameter or smaller.

[5] i.e., attainment demonstration, RFP, RACM, milestone requirements, contingency measures.

State will make RFP towards attainment will, therefore, have no meaning at that point.

"General Preamble for the Interpretation of Title I of the Clean Air Act Amendments of 1990"; (57 FR 13498, 13564, April 16, 1992).

The General Preamble also explained that

> [t]he section 172(c)(9) requirements are directed at ensuring RFP and attainment by the applicable date. These requirements no longer apply when an area has attained the standard and is eligible for redesignation. Furthermore, section 175A for maintenance plans . . . provides specific requirements for contingency measures that effectively supersede the requirements of section 172(c)(9) for these areas.

Id.

EPA similarly stated in its 1992 Calcagni memorandum that, "The requirements for reasonable further progress and other measures needed for attainment will not apply for redesignations because they only have meaning for areas not attaining the standard."

It is evident that even if we were to consider the Court's January 4, 2013 decision in *NRDC* v. *EPA* to mean that attainment-related requirements specific to subpart 4 should be imposed retroactively and thus are now past due, those requirements do not apply to an area that is attaining the 1997 and 2006 $PM_{2.5}$ standards, for the purpose of evaluating a pending request to redesignate the area to attainment. EPA has consistently enunciated this interpretation of applicable requirements under section 107(d)(3)(E) since the General Preamble was published more than twenty years ago. Courts have recognized the scope of EPA's authority to interpret "applicable requirements" in the redesignation context. *See Sierra Club* v. *EPA*, 375 F.3d 537 (7th Cir. 2004).

Moreover, even outside the context of redesignations, EPA has viewed the obligations to submit attainment-related SIP planning requirements of subpart 4 as inapplicable for areas that EPA determines are attaining the standard. EPA's prior "Clean Data Policy" rulemakings for the PM_{10} NAAQS, also governed by the requirements of subpart 4, explain EPA's reasoning. They describe the effects of a determination of attainment on the attainment-related SIP planning requirements of subpart 4. *See* "Determination of Attainment for Coso Junction Nonattainment Area," (75 FR 27944, May 19, 2010). *See also* Coso Junction proposed PM_{10} redesignation, (75 FR 36023, 36027, June 24, 2010); Proposed and Final Determinations of Attainment for San Joaquin Nonattainment Area (71 FR 40952, 40954–40955, July 19, 2006; and 71 FR 63641, 63643–63647 October 30, 2006). In short, EPA in this context has also long concluded that to require states to meet superfluous SIP planning requirements is not necessary and not required by the CAA, so long as those areas continue to attain the relevant NAAQS.

Elsewhere in this action, EPA proposes to determine that the NNJ and SNJ areas continue to attain the 1997 and 2006 $PM_{2.5}$ standards. Under its longstanding interpretation, EPA is proposing to determine here that the areas meet the attainment-related plan requirements of subparts 1 and 4.

Thus, EPA is proposing to conclude that the requirements to submit an attainment demonstration under 189(a)(1)(B), a RACM determination under section 172(c)(1) and section 189(a)(1)(c), a RFP demonstration under 189(c)(1), and contingency measure requirements under section 172(c)(9) are satisfied for purposes of evaluating the redesignation request.

3. Subpart 4 and Control of $PM_{2.5}$ Precursors

The DC Circuit in *NRDC* v. *EPA* remanded to EPA the two rules at issue in the case with instructions to EPA to re-promulgate them consistent with the requirements of subpart 4. EPA in this section addresses the Court's opinion with respect to $PM_{2.5}$ precursors. While past implementation of subpart 4 for PM_{10} has allowed for control of PM_{10} precursors such as NO_X from major stationary, mobile, and area sources in order to attain the standard as expeditiously as practicable, CAA section 189(e) specifically provides that control requirements for major stationary sources of direct PM_{10} shall also apply to PM_{10} precursors from those sources, except where EPA determines that major stationary sources of such precursors "do not contribute significantly to PM_{10} levels which exceed the standard in the area."

EPA's 1997 $PM_{2.5}$ implementation rule, remanded by the DC Circuit, contained rebuttable presumptions concerning certain $PM_{2.5}$ precursors applicable to attainment plans and control measures related to those plans. Specifically, in 40 CFR 51.1002, EPA provided, among other things, that a state was "not required to address VOC [and NH_3] as . . . $PM_{2.5}$ attainment plan precursor[s] and to evaluate sources of VOC [and NH_3] emissions in the State for control measures." EPA intended these to be rebuttable presumptions. EPA established these presumptions at the time because of uncertainties regarding the emission inventories for these pollutants and the effectiveness of specific control measures in various regions of the country in reducing $PM_{2.5}$ concentrations. EPA also left open the possibility for such regulation of VOC and NH_3 in specific areas where that was necessary.

The Court in its January 4, 2013 decision made reference to both section 189(e) and 40 CFR 51. 1002, and stated that, "In light of our disposition, we need not address the petitioners' challenge to the presumptions in [40 CFR 51.1002] that volatile organic compounds and NH_3 are not $PM_{2.5}$ precursors, as subpart 4 expressly governs precursor presumptions." *NRDC* v. *EPA*, at 27, n.10.

Elsewhere in the Court's opinion, however, the Court observed:

> NH_3 is a precursor to fine particulate matter, making it a precursor to both $PM_{2.5}$ and PM_{10}. For a PM_{10} nonattainment area governed by subpart 4, a precursor is presumptively regulated. See 42 U.S.C. § 7513a(e) [section 189(e)].

Id. at 21, n.7.

For a number of reasons, EPA believes that its proposed redesignation of the NNJ and SNJ areas is consistent with the Court's decision on this aspect of subpart 4. First, while the Court, citing section 189(e), stated that "for a PM_{10} area governed by subpart 4, a precursor is 'presumptively regulated,' " the Court expressly declined to decide the specific challenge to EPA's 1997 $PM_{2.5}$ implementation rule provisions regarding NH_3 and VOC as precursors. The Court had no occasion to reach whether and how it was substantively necessary to regulate any specific precursor in a particular $PM_{2.5}$ nonattainment area, and did not address what might be necessary for purposes of acting upon a redesignation request.

However, even if EPA takes the view that the requirements of subpart 4 were deemed applicable at the time the state submitted the redesignation request, and disregards the implementation rule's rebuttable presumptions regarding NH_3 and VOC as $PM_{2.5}$ precursors (and any similar provisions reflected in guidance for the 2006 $PM_{2.5}$ standard), the regulatory consequence would be to consider the need for regulation of all precursors from any sources in the area to demonstrate attainment and to apply the section 189(e) provisions to major stationary sources of precursors. In the case of the NNJ and SNJ areas EPA believes that doing so is consistent with proposing redesignation of the areas for the 1997 $PM_{2.5}$ and 2006 $PM_{2.5}$ standards. The NNJ and SNJ areas have attained the standard without any specific additional controls of VOC and

NH_3 emissions from any sources in the area.

Precursors in subpart 4 are specifically regulated under the provisions of section 189(e), which requires, with important exceptions, control requirements for major stationary sources of PM_{10} precursors.[6] Under subpart 1 and EPA's prior implementation rule, all major stationary sources of $PM_{2.5}$ precursors were subject to regulation, with the exception of NH_3 and VOC. Thus we must address here whether additional controls of NH_3 and VOC from major stationary sources are required under section 189(e) of subpart 4 in order to redesignate the area for the 1997 $PM_{2.5}$ and 2006 $PM_{2.5}$ standards. As explained below, we do not believe that any additional controls of NH_3 and VOC are required in the context of this redesignation.

In the General Preamble, EPA discusses its approach to implementing section 189(e). *See* 57 FR 13538–13542. With regard to precursor regulation under section 189(e), the General Preamble explicitly stated that control of VOCs under other Act requirements may suffice to relieve a state from the need to adopt precursor controls under section 189(e). 57 FR 13542. EPA in this proposal proposes to determine that the SIP has met the provisions of section 189(e) with respect to NH_3 and VOCs as precursors. This proposed determination is based on our findings that (1) the NNJ and SNJ areas contain no major stationary sources of NH_3, and (2) existing major stationary sources of VOC are adequately controlled under other provisions of the CAA regulating the ozone NAAQS.[7] In the alternative, EPA proposes to determine that, under the express exception provisions of section 189(e), and in the context of the redesignation of the area, which is attaining the 1997 and 2006 $PM_{2.5}$ standards, at present NH_3 and VOC precursors from major stationary sources do not contribute significantly to levels exceeding the 1997 and 2006 $PM_{2.5}$ standards in the NNJ and SNJ areas. *See* 57 FR 13539–42.

EPA notes that its 1997 $PM_{2.5}$ implementation rule provisions in 40 CFR 51.1002 were not directed at evaluation of $PM_{2.5}$ precursors in the context of redesignation, but at SIP plans and control measures required to bring a nonattainment area into attainment of the 1997 $PM_{2.5}$ NAAQS. By contrast, redesignation to attainment primarily requires the area to have already attained due to permanent and enforceable emission reductions, and to demonstrate that controls in place can continue to maintain the standard. Thus, even if we regard the Court's January 4, 2013 decision as calling for "presumptive regulation" of NH_3 and VOC for $PM_{2.5}$ under the attainment planning provisions of subpart 4, those provisions in and of themselves do not require additional controls of these precursors for an area that already qualifies for redesignation. Nor does EPA believe that requiring New Jersey to address precursors differently than they have already would result in a substantively different outcome.

Although, as EPA has emphasized, its consideration here of precursor requirements under subpart 4 is in the context of a redesignation to attainment, EPA's existing interpretation of subpart 4 requirements with respect to precursors in attainment plans for PM_{10} contemplates that states may develop attainment plans that regulate only those precursors that are necessary for purposes of attainment in the area in question, i.e., states may determine that only certain precursors need be regulated for attainment and control purposes.[8] Courts have upheld this approach to the requirements of subpart 4 for PM_{10}.[9] EPA believes that application of this approach to $PM_{2.5}$ precursors under subpart 4 is reasonable. Because the NNJ and SNJ areas have already attained the 1997 and 2006 $PM_{2.5}$ NAAQS with its current approach to regulation of $PM_{2.5}$ precursors, EPA believes that it is reasonable to conclude in the context of this redesignation that there is no need to revisit the attainment control strategy with respect to the treatment of precursors. Even if the Court's decision is construed to impose an obligation, in evaluating this redesignation request, to consider additional precursors under subpart 4, it would not affect EPA's approval here of New Jersey's request for redesignation of the NNJ and SNJ areas. In the context of a redesignation, the areas have shown that they have attained the standards. Moreover, the State has shown and EPA is proposing to determine that attainment in these areas are due to permanent and enforceable emissions reductions on all precursors necessary to provide for continued attainment. It follows logically that no further control of additional precursors is necessary. Accordingly, EPA does not view the January 4, 2013 decision of the Court as precluding redesignation of the NNJ and SNJ areas to attainment for the 1997 and 2006 $PM_{2.5}$ NAAQS at this time.

In sum, even if New Jersey were required to address precursors for the NNJ and SNJ areas under subpart 4 rather than under subpart 1, as interpreted in EPA's remanded $PM_{2.5}$ implementation rule, EPA would still conclude that the area had met all applicable requirements for purposes of redesignation in accordance with section 107(d)(3(E)(ii) and (v).

VI. What is EPA's analysis of New Jersey's redesignation request?

In an effort to comply with the CAA and to ensure continued attainment of the NAAQS, on December 26, 2012, the State of New Jersey submitted a redesignation request and maintenance plan for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS for the NNJ and SNJ $PM_{2.5}$ nonattainment areas.

The following is a description of how the state has fulfilled each of the CAA redesignation requirements.

A. Attainment

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). In this action for this rulemaking, EPA is proposing to determine that the NY-NJ-CT and the PA-NJ-DE nonattainment areas are continuing to attain the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS.

1997 annual $PM_{2.5}$ NAAQS

An area may be considered to be attaining the 1997 annual $PM_{2.5}$ NAAQS if it meets the NAAQS as determined in accordance with 40 CFR 50.7 and Appendix N of part 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain this standard, the three-year average of annual means must be less than or equal to 15 $\mu g/m^3$ at all relevant monitoring sites in the subject area. The relevant data must be collected and quality-assured in accordance with 40 CFR part 58 and

[6] Under either subpart 1 or subpart 4, for purposes of demonstrating attainment as expeditiously as practicable, a state is required to evaluate all economically and technologically feasible control measures for direct PM emissions and precursor emissions, and adopt those measures that are deemed reasonably available.

[7] The NNJ and SNJ areas have reduced VOC emissions through the implementation of various control programs including VOC Reasonably Available Control Technology regulations and various on-road and non-road motor vehicle control programs.

[8] See, e.g., "Approval and Promulgation of Implementation Plans for California—San Joaquin Valley PM–10 Nonattainment Area; Serious Area Plan for Nonattainment of the 24-Hour and Annual PM–10 Standards," 69 FR 30006 (May 26, 2004) (approving a PM_{10} attainment plan that impose controls on direct PM_{10} and NO_X emissions and did not impose controls on SO_2, VOC, or ammonia emissions).

[9] *See, e.g., Assoc. of Irritated Residents* v. *EPA et al.*, 423 F.3d 989 (9th Cir. 2005).

recorded in the EPA Air Quality System (AQS). The monitors meet data completeness requirements when "at least 75 percent of the scheduled sampling days for each quarter have valid data." The use of less than complete data is subject to the approval of EPA, which may consider factors such as monitoring site closures/moves, monitoring diligence, and nearby concentrations in determining whether to use such data.

As noted in section IIA above, EPA has finalized determinations that the NY-NJ-CT and PA-NJ-DE nonattainment areas had attained the 1997 annual $PM_{2.5}$ NAAQS. EPA has also reviewed more recent quality-assured data for both NY-NJ-CT and the PA-NJ-DE nonattainment areas. The ambient air monitoring data submitted by New Jersey shows $PM_{2.5}$ concentrations attaining the annual $PM_{2.5}$ NAAQS for the 2009–2011 time period for both nonattainment areas.

Table 1, below, shows the design value by county (i.e., 3-year average) of annual mean $PM_{2.5}$ concentrations) for the 2009–2011 time period for the 1997 annual $PM_{2.5}$ NAAQS for the NY-NJ-CT $PM_{2.5}$ nonattainment area monitors. Table 2, below, shows the design value for the 2009–2011 time period for the 1997 annual $PM_{2.5}$ NAAQS for the PA-NJ-DE nonattainment area monitors. Preliminary design values[10] for the 2010–2012 time period is also shown.

TABLE 1—DESIGN VALUE CONCENTRATIONS FOR THE NY-NJ-CT 1997 ANNUAL $PM_{2.5}$ AREA (μg/m³)

[The standard is 15.0 μg/m³]

Nonattainment area counties	Annual mean concentrations			Preliminary annual mean concentration	2011 3-year annual design value	Preliminary 2012 3-year annual design value
	2009	2010	2011	2012	2009–2011	2010–2012
NEW JERSEY:						
Bergen	9.1	8.8	9.8	8.9	9.2	9.2
Essex	INC	9.2	10.5	9.0	INC	9.5
Hudson	10.8	10.6	11.8	10.9	11.1	11.1
Mercer	9.3	9.5	10.3	8.8	9.7	9.5
Middlesex	8.1	7.4	8.3	*8.3	7.9	*8.0
Monmouth	NM	NM	NM	NM	NM	NM
Morris	8.1	8.5	8.7	7.9	8.5	8.4
Passaic	9.0	8.9	10.1	9.1	9.3	*9.3
Somerset	NM	NM	NM	NM		
Union	11.3	10.6	12.2	10.7	11.4	11.2
NEW YORK:						
Bronx	12.7	11.4	11.6	9.5	11.9	9.8
Kings	10.7	9.9	10.3	9.7	10.3	9.9
Nassau	9.0	8.7	8.9	(*)	8.9	(*)
New York	11.6	11.5	12.2	11.7	11.7	11.8
Orange	7.9	8.1	8.6	*7.8	8.2	*8.2
Queens	9.5	9.4	9.3	8.5	9.4	*9.1
Richmond	9.8	9.7	10.1	9.4	9.8	9.6*
Rockland	NM	NM	NM	NM	NM	NM
Suffolk	8.1	8.4	8.8	7.9	8.4	8.4
Westchester	9.1	8.8	9.3	(*)	9.1	(*)
CONNECTICUT:						
Fairfield	9.4	8.8	10.0	9.3	9.4	9.4
New Haven	9.9	9.0	10.0	9.2	9.6	9.4

INC—All counties listed as INC did not meet 75 percent data completeness requirement for the relevant time period.
NM—No monitor located in county.
*—Missing 1 or more quarters.

TABLE 2—DESIGN VALUE CONCENTRATIONS FOR THE PA-NJ-DE 1997 ANNUAL $PM_{2.5}$ AREA (μg/m³)

[The standard is 15.0 μg/m³]

Nonattainment area counties	Annual mean concentrations			Preliminary annual mean concentration	2011 3-year annual design value	Preliminary 2012 3-year annual design value
	2009	2010	2011	2012	2009–2011	2010–2012
NEW JERSEY:						
Camden	9.5	10.3	10.1	9.0	9.7	9.5
Gloucester	9.3	10.0	9.4	9.4	9.3	*9.3
Burlington	NM	NM	NM	NM	NM	NM
DELAWARE:						
New Castle	11.2	11.7	10.3	10.3	10.7	10.4
PENNSYLVANIA:						
Bucks	10.8	10.5	11.5	10.7	10.9	10.9
Chester	14.1	13.8	13.3	9.8	13.7	*12.3

[10] All data for 2012 has been quality-assured.

TABLE 2—DESIGN VALUE CONCENTRATIONS FOR THE PA-NJ-DE 1997 ANNUAL $PM_{2.5}$ AREA (μg/m³)—Continued

[The standard is 15.0 μg/m³]

Nonattainment area counties	Annual mean concentrations			Preliminary annual mean concentration	2011 3-year annual design value	Preliminary 2012 3-year annual design value
	2009	2010	2011	2012	2009–2011	2010–2012
Delaware	12.4	13.5	12.9	*12.8	12.9	*13.1
Montgomery	10.4	9.5	10.3	9.7	10.1	9.8
Philadelphia	11.1	11.0	11.4	16.4	11.2	13.4

NM—No monitor located in county.
*—Missing 1 or more quarters.

Air monitoring data indicates that the NY-NJ-CT and the PA-NJ-DE nonattainment areas continue to meet the 1997 annual $PM_{2.5}$ NAAQS. EPA concludes that NY-NJ-CT and the PA-NJ-DE nonattainment areas are continuing to attain the 1997 annual $PM_{2.5}$ NAAQS. Therefore, EPA proposes that the statutory criterion for attainment of the 1997 annual $PM_{2.5}$ NAAQS (40 CFR 50.7 and Appendix N of part 50) has been met.

2006 24-Hour $PM_{2.5}$ NAAQS

An area may be considered to be attaining the 2006 24-hour $PM_{2.5}$ NAAQS if it meets the NAAQS as determined in accordance with 40 CFR 50.13 and Appendix N of part 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain this standard, the 98th percentile 24-hour concentration, as determined in accordance with 40 CFR part 50, Appendix N, is less than or equal to 35 μg/m³ at all relevant monitoring sites in the subject area over a 3-year period. The relevant data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in EPA's AQS. The monitors meet data completeness requirements when "at least 75 percent of the scheduled sampling days for each quarter have valid data." The use of less than complete data is subject to the approval of EPA, which may consider factors such as monitoring site closures/moves, monitoring diligence, and nearby concentrations in determining whether to use such data.

EPA previously finalized determinations that the NY-NJ-CT and PA-NJ-DE nonattainment areas had attained the 2006 24-hour $PM_{2.5}$ NAAQS, as noted in section IIA. EPA has also reviewed more recent quality-assured data for both NY-NJ-CT and the PA-NJ-DE nonattainment areas. The ambient air monitoring data submitted by New Jersey shows $PM_{2.5}$ concentrations attaining the 24-hour $PM_{2.5}$ NAAQS for the 2009–2011 time period for both nonattainment areas.

Table 3, below, shows the design value by county for the 98th percentile 24-hour $PM_{2.5}$ concentrations for the 2009–2011 time period for the 2006 24-hour $PM_{2.5}$ NAAQS for the NY-NJ-CT $PM_{2.5}$ nonattainment area monitors. Table 4 shows the design value by county for the 2009–2011 time period for the PA-NJ-DE nonattainment area monitors. Preliminary design values [11] for the 2010–2012 time period is also shown.

TABLE 3—DESIGN VALUE CONCENTRATIONS FOR THE NY-NJ-CT 2006 24–HOUR $PM_{2.5}$ AREA (μg/m³)

[The standard is 35 μg/m³]

Nonattainment area counties	98th percentile 24-hour concentrations			Preliminary 98th percentile 24-hour concentration	2011 3-year 24-hour design value	Preliminary 2012 3-year 24-hour design value
	2009	2010	2011	2012	2009–2011	2010–2012
NEW JERSEY:						
Bergen	27.1	25.1	23.5	19.2	25	23
Essex	INC	INC	23.9	21.5	INC	23
Hudson	29.2	25.9	28.2	24.6	28	26
Mercer	23.0	26.9	27.7	20.5	26	25
Middlesex	21.0	19.1	20.5	*17.5	20	*19
Monmouth	NM	NM	NM	NM	NM	NM
Morris	20.9	22.7	24.4	18.2	23	21
Passaic	26.1	24.4	25.4	21.4	25	*24
Somerset	NM	NM	NM	NM	NM	NM
Union	27.7	28.1	32.9	25.8	30	29
NEW YORK:						
Bronx	30.0	27.0	27.0	25.1	28	24
Kings	26.9	24.8	24.3	22.1	25	24
Nassau	25.8	20.2	23.1	(*)	23	(*)
New York	29.0	27.0	26.8	24.9	28	26
Orange	20.6	26.5	20.8	*20.2	23	*23
Queens	26.7	25.5	24.7	20.5	26	*24
Richmond	24.6	25.5	23.2	22.1	24	*24
Rockland	NM	NM	NM	NM	NM	NM

[11] All data for 2012 has been quality-assured.

TABLE 3—DESIGN VALUE CONCENTRATIONS FOR THE NY-NJ-CT 2006 24–HOUR $PM_{2.5}$ AREA (μg/m³)—Continued

[The standard is 35 μg/m³]

Nonattainment area counties	98th percentile 24-hour concentrations			Preliminary 98th percentile 24-hour concentration	2011 3-year 24-hour design value	Preliminary 2012 3-year 24-hour design value
	2009	2010	2011	2012	2009–2011	2010–2012
Suffolk	21.6	26.1	21.7	18.7	23	22
Westchester	27.0	26.7	22.7	(*)	25	(*)
CONNECTICUT:						
Fairfield	26.4	24.2	25.2	22.5	26	24
New Haven	30.2	25.5	27.5	22.0	28	25

NM—No monitor located in county.
INC—All counties listed as INC did not meet 75 percent data completeness requirement for the relevant time period.
*—Missing 1 or more quarters.

TABLE 4—DESIGN VALUE CONCENTRATIONS FOR THE PA-NJ-DE 2006 24–HOUR $PM_{2.5}$ AREA (μg/m³)

[The standard is 35 μg/m³]

Nonattainment area counties	98th percentile 24-hour concentrations			Preliminary 98th percentile 24-hour concentration	2011 3-year 24-hour design value	Preliminary 2012 3-year 24-hour design value
	2009	2010	2011	2012	2009–2011	2010–2012
NEW JERSEY:						
Camden	25.0	23.4	24.3	19.8	24	23
Gloucester	21.9	21.6	22.2	21.8	22	*22
Burlington	NM	NM	NM	NM	NM	NM
DELAWARE:						
New Castle	28.4	27.9	24.7	24.2	27	26
PENNSYLVANIA:						
Bucks	25.8	28.3	29.7	28.2	28	29
Chester	31.1	35.1	33.8	24.1	33	31
Delaware	27.9	32.8	28.6	*31.1	30	*31
Montgomery	27.2	25.9	27.6	21.8	27	25
Philadelphia	28.6	28.9	30.6	31.4	29	30

NM—No monitor located in county.
*—Missing 1 or more quarters.

Air monitoring data indicates that the NY-NJ-CT and the PA-NJ-DE nonattainment areas continue to meet the 2006 24-hour $PM_{2.5}$ NAAQS. EPA concludes that the NY-NJ-CT and the PA-NJ-DE nonattainment areas are continuing to attain the 2006 24-hour $PM_{2.5}$ NAAQS. Therefore, EPA proposes that the statutory criterion for attainment of the 2006 24-hour $PM_{2.5}$ NAAQS (40 CFR 50.13 and Appendix N of part 50) has been met.

B. The Area Has Met All Applicable Requirements Under Section 110 and Part D of the CAA

EPA has determined that the NNJ and the SNJ $PM_{2.5}$ nonattainment areas have met all SIP requirements applicable for purposes of this redesignation under section 110 of the CAA (General SIP Requirements) and that, upon final approval of the 2007 attainment year emissions inventory, as discussed below in this proposed rulemaking, it will have met all applicable SIP requirements under part D of Title I of the CAA, in accordance with CAA section 107(d)(3)(E)(v). In addition, EPA is proposing to find that all applicable requirements of the New Jersey SIP for purposes of redesignation have been approved in accordance with CAA section 107(d)(3)(E)(ii).

1. Section 110 SIP Requirements

Section 110(a)(2) of Title I of the CAA delineates the general requirements for a SIP, which include enforceable emissions limitations and other control measures, means, or techniques, provisions for the establishment and operation of appropriate devices necessary to collect data on ambient air quality, and programs to enforce the limitations. The general SIP elements and requirements set forth in CAA section 110(a)(2) include, but are not limited to the following:

- Submittal of a SIP that has been adopted by the state after reasonable public notice and hearing;
- Provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality;
- Implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD));
- Provisions for the implementation of part D requirements for New Source Review (NSR) permit programs;
- Provisions for air pollution modeling; and
- Provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) of the CAA requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address the interstate transport of air pollutants in accordance with the NO_X SIP Call, October 27, 1998 (63 FR 57356), amendments to the NO_X

SIP Call, May 14, 1999 (64 FR 26298) and March 2, 2000 (65 FR 11222), and CAIR, May 12, 2005 (70 FR 25162). However, the CAA section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. EPA believes that the requirements linked with a particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, EPA does not believe that these requirements are applicable requirements for purposes of redesignation.

In addition, EPA believes that the other CAA section 110(a)(2) elements not connected with nonattainment plan submissions and not linked with an area's attainment status are not applicable requirements for purposes of redesignation. The area will still be subject to these requirements after it is redesignated. EPA concludes that the CAA section 110(a)(2) and part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request, and that CAA section 110(a)(2) elements not linked in the area's nonattainment status are not applicable for purposes of redesignation. This approach is consistent with EPA's existing policy on applicability of conformity (i.e., for redesignations) and oxygenated fuels requirement. See Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174, October 10, 1996), (62 FR 24826, May 7, 1997); Cleveland-Akron-Lorain, Ohio final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida final rulemaking (60 FR 62748, December 7, 1995). See also the discussion on this issue in the Cincinnati, Ohio redesignation (65 FR at 37890, June 19, 2000) and in the Pittsburgh, Pennsylvania redesignation (66 FR at 53099, October 19, 2001).

On April 10, 2013 (78 FR at 21296) EPA proposed action on New Jersey's section 110 "infrastructure SIPs" required under CAA section 110(a)(2) that were submitted by the state. New Jersey submitted an infrastructure SIP on February 25, 2008 that addressed the 1997 annual $PM_{2.5}$ NAAQS. On January 20, 2010 the state submitted an infrastructure SIP that addressed the 2006 24-hour $PM_{2.5}$ NAAQS. EPA will be acting on those SIPs under separate actions.

EPA has reviewed the New Jersey SIP and has concluded that it meets the general SIP requirements under section 110(a)(2) of the CAA to the extent they are applicable for purposes for redesignating the NNJ and SNJ $PM_{2.5}$ nonattainment areas to attainment for the 1997 annual $PM_{2.5}$ NAAQS, and the 2006 24-hour $PM_{2.5}$ NAAQS. Notwithstanding the fact that EPA has not yet completed rulemaking on New Jersey's submittals for the $PM_{2.5}$ infrastructure SIP elements of section 110(a)(2), these requirements are, however, statewide requirements that are not linked to the $PM_{2.5}$ nonattainment status of the NNJ and SNJ $PM_{2.5}$ nonattainment areas. Therefore, EPA believes that these SIP elements are not applicable requirements for purposes of review of New Jersey's $PM_{2.5}$ redesignation request.

2. Title I, part D nonattainment requirements

Subpart 1 of part D of Title I of the CAA sets forth the basic nonattainment requirements applicable to all nonattainment areas. All areas that were designated nonattainment for the 1997 and 2006 $PM_{2.5}$ NAAQS were designated under this subpart of the CAA, and the requirements applicable to them are contained in sections 172 and 176. EPA's analysis of the particulate-matter-specific provisions of Subpart 4 of part D of Title I as a result of the January 4, 2013 D.C. Circuit decision is discussed earlier in this notice.

Section 172 Requirements

Under CAA section172, states with nonattainment areas must submit plans providing for timely attainment and meet a variety of other requirements. As mentioned, EPA has finalized determinations that the NY-NJ-CT and PA-NJ-DE nonattainment areas had attained the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS.

Notwithstanding that New Jersey's obligation to submit an attainment demonstration, RACT/RACM, RFP, contingency measures, and other planning SIPs related to the attainment of the $PM_{2.5}$ NAAQS has been suspended due to EPA's determination that the nonattainment areas attained the NAAQS, New Jersey had previously submitted a SIP revision ($PM_{2.5}$ attainment plan) for attaining the 1997 annual $PM_{2.5}$ NAAQS. The SIP was submitted to EPA on April 1, 2009. EPA proposed to approve the $PM_{2.5}$ attainment plan on December 14, 2012 (77 FR 74421). As a result of the determination of attainment, the only remaining requirement to be considered is the emission inventory required under CAA section 172(c)(3).

The General Preamble for Implementation of Title I also discusses the evaluation of these requirements in the context of EPA's consideration of a redesignation request. The General Preamble sets forth EPA's view of applicable requirements for purposes of evaluating redesignation requests when an area is attaining the standard. See General Preamble for Implementation of Title I (57 FR 13498, April 16, 1992).

Because attainment has been reached for the NY-NJ-CT and PA-NJ-DE nonattainment areas, no additional measures are needed to provide for attainment. CAA section 172(c)(1) requirements for an attainment demonstration and RACT/RACM are no longer considered to be applicable requirements for as long as the area continues to attain the standard until redesignation. *See* 40 CFR 51.1004(c). The RFP requirement under CAA section 172(c)(2) is similarly not relevant for purposes of redesignation.

Section 172(c)(3) requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions. As part of the maintenance plan submitted by New Jersey on December 26, 2012, and further supplemented on May 3, 2013, the State has submitted an attainment year inventory that meets this requirement. For purposes of the $PM_{2.5}$ NAAQS, the emissions inventory should address not only direct emissions of $PM_{2.5}$, but also emissions of all precursors with the potential to participate in $PM_{2.5}$ formation, i.e., SO_2, NO_X, VOC and NH_3. The 2007 attainment year emissions inventory submitted by New Jersey in the December 26, 2012 submission addressed $PM_{2.5}$ (including condensables), SO_2, and NO_X emissions. The May 3, 2013 submission addressed VOC and NH_3.

The emissions cover the general source categories of point sources, area sources, onroad sources and nonroad sources. The proposed approval of the 2007 attainment year emissions inventory in this rulemaking action will, when finalized, meet the requirements of CAA section 172(c)(3).

The 2007 emissions inventory was prepared by NJDEP and is presented in Tables 7A and 7B located in section VI.E.2(a), Attainment Emissions Inventory, of this action. The tables show the 2007 base year $PM_{2.5}$, NO_x, SO_2, VOC and NH_3 annual emission inventories for the NNJ and SNJ $PM_{2.5}$ nonattainment areas. EPA's detailed evaluation of the base year inventories for all pollutants are addressed in section VI.E.2.(a), Attainment Emissions

Inventory, of this action. A copy of the Technical Support Document [13] submitted by New Jersey is included in the New Jersey SIP submission.

Section 172(c)(4) of the CAA requires the identification and quantification of allowable emissions for major new and modified stationary sources in an area, and CAA section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. EPA has determined that, since the PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that a nonattainment New Source Review (NSR) program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A more detailed rationale for this view is described in the memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994 entitled, "Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment."

New Jersey has not relied on a part D NSR program to maintain air quality for the 1997 annual $PM_{2.5}$ and 2006 24-hour $PM_{2.5}$ NAAQS. Moreover, because the NNJ and SNJ $PM_{2.5}$ nonattainment areas are being redesignated to attainment by this action, Prevention of Significant Deterioration (PSD) requirements will be applicable to new or modified sources of $PM_{2.5}$ in the area.

New Jersey currently implements NSR in the thirteen nonattainment counties through the "transitional" NSR provisions contained in Appendix S of 40 CFR Part 51 and the USEPA policy memorandum dated July 21, 2011, concerning interpollutant offsets. The Federal provisions and policy memorandum will be superseded once New Jersey revises its Emission Offset Rule N.J.A.C. 7:27–18.

New Jersey does not have its own promulgated regulations as part of the SIP for part C Prevention of Significant Deterioration (PSD) rules. New Jersey is appropriately implementing the PSD program through the delegated federal PSD regulations at 40 CFR 52.21. The program will become effective in the NNJ and SNJ areas upon redesignation to attainment.

Section 172(c)(6) requires the SIP to contain control measures necessary to provide for attainment of the standard. Because attainment has been reached in the NY-NJ-CT and the PA-NJ-DE nonattainment areas, no additional control measures are needed to provide for attainment.

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, EPA believes the New Jersey SIP meets the requirements of section 110(a)(2) applicable for purposes of redesignation.

CAA section 172(c)(9) provides that SIPs in nonattainment areas "shall provide for the implementation of specific measures to be undertaken if the area fails to make reasonable further progress, or to attain the [NAAQS] by the attainment date applicable under this part. Such measures shall be included in the plan revision as contingency measures to take effect in any such case without further action by the State or [EPA]." This contingency measure requirement is inextricably tied to the reasonable further progress and attainment demonstration requirements. Because attainment has been reached for the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS, contingency measures are not applicable for redesignation.

Section 176 Conformity Requirements

Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine transportation conformity applies to transportation plans, programs and projects that are developed, funded or approved under Title 23 of the United States Code (U.S.C.) and the Federal Transit Act. The requirement to determine general conformity applies to all other federally supported or funded projects. State transportation conformity SIP revisions must be consistent with Federal transportation conformity regulations relating to consultation, enforcement and enforceability that EPA promulgated pursuant to its authority under the CAA [12].

EPA interprets the conformity [13] SIP requirements as not applying for purposes of evaluating a redesignation request under section 107(d) because state conformity rules are still required after redesignation and Federal conformity rules apply where state rules have not been approved. See Wall v. EPA, 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); see also 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida).

C. Fully Approved SIP Under Section 110(k) of the CAA

Section 107(d)(3)(E)(ii) of the CAA requires that for an area to be redesignated the Administrator has fully approved the applicable implementation plan for the area under section 110(k).

Upon final approval of New Jersey's 2007 attainment year emissions inventory, EPA will have fully approved the SIPs for the NNJ and SNJ $PM_{2.5}$ nonattainment areas for the 1997 annual and 2006 $PM_{2.5}$ NAAQS under section 110(k) for all requirements applicable for purposes of redesignation.

EPA is proposing to approve the 2007 attainment year emissions inventory (submitted as part of its maintenance plan) for the NNJ and SNJ $PM_{2.5}$ nonattainment areas as meeting the requirement of section 172(c)(3) of the CAA for the 1997 annual and 2006 $PM_{2.5}$ NAAQS. Therefore, New Jersey will have satisfied all applicable requirements under part D of Title I of the CAA.

D. The Air Quality Improvement Must Be Permanent and Enforceable

The improvement in air quality must be due to permanent and enforceable reductions in emissions resulting from implementation of the SIP and applicable Federal air pollution control regulations and other permanent and enforceable reductions (CAA section 107(d)(3)(E)(iii)). EPA proposes to determine that the air quality improvement in New Jersey in the NNJ and SNJ $PM_{2.5}$ nonattainment areas is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, Federal measures, and other state adopted measures.

New Jersey's redesignation submission cited a number of regulatory programs that provided for emission reductions of $PM_{2.5}$, and $PM_{2.5}$ precursors NO_X, and SO_2. New Jersey also included control measures for VOCs, which were not considered quantifiable precursors when the redesignation request was submitted, as they expected some $PM_{2.5}$ benefit from the implementation of VOC control measures.

The regulatory control measures for $PM_{2.5}$, and $PM_{2.5}$ precursors VOCs, NO_X, and SO_2, included in New Jersey's redesignation submission have been adopted into the SIP, which provided for emission reductions from 2002 to 2009, the year modeled for the attainment demonstration for the 1997

[12] Guidance on transportation conformity SIPs can be found at: *http://www.epa.gov/otaq/stateresources/transconf/policy/420b09001.pdf.*

[13] CAA section 176(c)(4)(E) requires states to submit revisions to their SIPs to reflect certain Federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from MVEBs that are established in control strategy SIPs and maintenance plans.

$PM_{2.5}$ NAAQS. New Jersey also included additional measures that were adopted by the state, but not yet implemented, that would provide benefit after 2009. From 2002 to 2009, statewide emissions decreased significantly: $PM_{2.5}$ emissions decreased by 34 percent, NO_X emissions have decreased by 39 percent, and SO_2 emissions have decreased by 70 percent.

Tables 5A and 5B below, show the State and Federal control measures, which provide emission reductions from 2002 to 2009. The tables also summarize the maintenance plan measures with quantifiable emission reductions that New Jersey is relying on to demonstrate maintenance; discussed in more detail in section VI.E below. Additional 2002 to 2009 control measures that support the SIP but were not quantified, or are VOC only measures, are also shown.

TABLE 5A—NEW JERSEY'S 2002–2009 CONTROL MEASURES THAT REDUCE EMISSIONS OF $PM_{2.5}$ AND ITS PRECURSORS IN NEW JERSEY

Measure	Targeted pollutants				Maintenance plan measure	Affected State rules
	NO_X	$PM_{2.5}$	SO_2	VOC		
Vehicle Inspection and Maintenance (IM) Program.	X			X	X	NJAC 7:27–15.
NO_X Budget Program (SIP Call)	X		X			NJAC 7:27–30.
Electric Generating Unit (EGU)—BL England Administrative Consent Order (ACO).	X	X	X			NA.
EGUP–SEG—Consent Decree	X	X	X		X	NA.
Refinery Consent Decree (Sunoco, Valero, ConocoPhillips).	X	X	X	X	X	NA.
Industrial, Commercial and Institutional Boilers (ICI) Boilers, Turbines and Engines 2005.	X				X	NJAC 7:27–27.19.
Case by Case NO_X and VOC (Facility Specific Emission Limits or FSELs/Administrative Emission Limits or AELs).	X			X		NJAC 7:27–16, 19.
Sewage and Sludge Incinerators	X					NJAC 7:27–19.28.
New Jersey Low Emission Vehicle (LEV) Program.	X	X	X	X	X	NJAC 7:27–29.
Municipal Waste Combustors (Incinerators)	X					NJAC 7:27–19.13.
Asphalt Production Plants	X				X	NJAC 7:27–19.9.
ICI Boilers 2009	X				X	NJAC 7:27–19.7.
EGU-High Electric Demand Day (HEDD)	X		X			NJAC 7:27–19.29.
Additional New Jersey Measures That Support the SIP						
Stage I and II (Gasoline Transfer Operations).				X		NJAC 7:27–16.
Architectural Coatings 2005				X		NJAC 7:27–23.
Consumer Products 2005				X		NJAC 7:27–24.
Mobile Equipment Refinishing (Auto body)				X		NJAC 7:27–16.
Solvent Cleaning				X		NJAC 7:27–16.
Portable Fuel Containers 2005				X		NJAC 7:27–24.
Mercury Rule	X	X	X			NJAC 7:27–27.
Diesel Vehicle Retrofit Program		X				NJAC 7:27–32, 14.
Consumer Products 2009				X		NJAC 7:27–24.
Adhesives & Sealants				X		NJAC 7:27–26.
Asphalt Paving (cutback and emulsified)				X		NJAC 7:27–16.19.
Control Technology Guideline (CTG) Group 1: Printing.				X		NJAC 7:27–16.7.
Portable Fuel Containers 2009				X		NJAC 7:27–24.
Nonattainment New Source Review (NNSR)	X	X	X	X		NJAC 7:27–8.
Prevention of Significant Deterioration (PSD)	X	X	X	X		NA.
Energy Master Plan	X	X	X	X		NA.

TABLE 5B—FEDERAL 2002–2009 CONTROL MEASURES THAT REDUCE EMISSIONS OF $PM_{2.5}$ AND ITS PRECURSORS IN NEW JERSEY

Measure	Targeted pollutants				Maintenance plan measure
	NO_X	$PM_{2.5}$	SO_2	VOC	
Residential Woodstove NSPS	X	X		X	X
Motor Vehicle Control Program (Tier 1 and Tier 2)	X	X	X	X	X
Acid Rain Program	X		X		
Nonroad Diesel Engine Standards	X	X		X	X
Phase 2 Standards for New Nonroad Spark-Ignition Nonhandheld Engines at or below 19 kW (lawn and garden)	X			X	X
Phase 2 Standards for Small Spark-Ignition Handheld Engines at or below 19 kW (lawn and garden)	X			X	X
Heavy Duty Diesel Vehicle (HDDV) Defeat Device Settlement	X				
Gasoline Boats and Personal Watercraft, Outboard Engines	X	X		X	X
National Low Emission Vehicle Program (NLEV)	X	X		X	X

TABLE 5B—FEDERAL 2002–2009 CONTROL MEASURES THAT REDUCE EMISSIONS OF $PM_{2.5}$ AND ITS PRECURSORS IN NEW JERSEY—Continued

Measure	Targeted pollutants				Maintenance plan measure
	NO_X	$PM_{2.5}$	SO_2	VOC	
Large Industrial Spark-Ignition Engines over 19 kW (>50 hp) Tier 1 and Tier 2	X				X
Heavy-Duty Highway Rule—Vehicle Standards and Diesel Fuel Sulfur Control	X	X		X	X
Diesel Marine Engines over 37 kW Category 1 Tier 2, Category 2 Tier 2, Category 3 Tier 1	X			X	X
Recreational Vehicles (includes snowmobiles, off-highway motorcycles, and all-terrain vehicles)	X			X	X
Locomotive Engines and Marine Compression-Ignition Engines Less Than 30 Liters per Cylinder Tier 2 and Tier 3	X	X		X	X
USEPA Maximum Achievable Control Technology (MACT) Standards including Industrial Boiler/Process Heater MACT				X	X

Tables 6A and 6B show additional post 2009 maintenance plan measures with creditable emission reductions, including measures that have been adopted but not yet implemented, that New Jersey is relying on to demonstrate maintenance; discussed in more detail in section VI.E below. New Jersey's submittal also included additional measures to provide additional assurance that the improvement in New Jersey's air quality will continue to improve.

TABLE 6A—NEW JERSEY'S POST 2009 CONTROL MEASURES THAT REDUCE EMISSIONS OF $PM_{2.5}$ AND ITS PRECURSORS IN NEW JERSEY

Measure	Targeted pollutants				Maintenance plan measure	Affected State rules
	NO_X	$PM_{2.5}$	SO_2	VOC		
Vehicle IM Program Revisions	X			X	X	NJAC 7:27–15.
Glass Manufacturing	X				X	NJAC 7:27–19.10.
EGU—Coal, Oil, and Gas Fired Boilers	X	X	X		X	NJAC 7:27–4.2, 10.2, 19.4.
Low Sulfur Distillate and Residual Fuel Strategies.	X		X		X	NJAC 7:27–9, 7:27–27.9.

TABLE 6B—FEDERAL POST 2009 CONTROL MEASURES THAT REDUCE EMISSIONS OF $PM_{2.5}$ AND ITS PRECURSORS IN NEW JERSEY

Measure	Targeted pollutants				Maintenance plan measure
	NO_X	$PM_{2.5}$	SO_2	VOC	
Reciprocating Internal Combustion Engines MACT	X	X			X

New Jersey also presented data to demonstrate that the decline in $PM_{2.5}$ concentrations was due primarily to permanent and enforceable control measures rather than the country's economic recession that began in 2007 and resulting downturn in energy use.

Although electricity generation in New Jersey decreased by one percent from 2007 to 2009, electricity generation in New Jersey has experienced an overall increase of 5 percent from 2002 to 2011. In contrast, emission reductions have outpaced generation changes with decreases of 93, 84 and 72 percent for SO_2, NO_X and $PM_{2.5}$, respectively, from 2000–2011, with significant emission reductions occurring prior to 2007. From 2007 to 2009, emission reductions for SO_2, NO_X and $PM_{2.5}$ show decreases of 65, 51, and 46 percent, respectively.

New Jersey also examined the onroad mobile sector to determine if statewide vehicle miles traveled (VMT) data declined and whether it was significant enough to affect air quality compared to emission reductions from "fleet turnover". "Fleet turnover" refers to the replacement of older, more polluting vehicles with newer vehicles that emit pollutants at lower levels as a result of the Federal "Tier 2" new vehicle emission standards (began with the 2004 model year), and further augmented by the California Low Emission Vehicle (LEV)II new vehicle emission standards (began with the 2009 model year in New Jersey).

Based on yearly statewide data, VMT declined approximately 3.7 percent in 2008 and 0.5 percent in 2009 after steady annual VMT increases of about two percent between 1996 and 2006. Between 2007 and 2009, emissions of $PM_{2.5}$ decreased by 23 percent, and NO_X by 24 percent. An evaluation of onroad emissions data from 2002 to 2009 shows New Jersey emissions of $PM_{2.5}$ decreasing by approximately 39 percent and emissions of NO_X decreasing by approximately 50 percent, even though VMT increased by 4.5 to 6 percent. This suggests that fleet turnover, rather than changes in VMT, had a much greater impact on onroad emissions.

New Jersey has demonstrated that actual enforceable emission reductions are responsible for the air quality

improvement. EPA proposes to find that the combination of existing EPA-approved SIP and Federal measures contribute to the permanence and enforceability of reduction in ambient $PM_{2.5}$ levels that have allowed New Jersey to attain the 1997 $PM_{2.5}$ and 2006 $PM_{2.5}$ NAAQS.

E. The Area Must Have a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA (CAA section 107(d)(3)(E)(iv)). In conjunction with its request to redesignate the NNJ and SNJ $PM_{2.5}$ nonattainment areas to attainment for the 1997 annual $PM_{2.5}$ NAAQS and the 2006 24-hour $PM_{2.5}$ NAAQS, New Jersey submitted a SIP revision to provide for maintenance for at least 10 years after the effective date of redesignation to attainment. EPA believes this maintenance plan meets the requirements for approval under section 175A of the CAA.

1. What is required in a maintenance plan?

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan which demonstrates that attainment will continue to be maintained for the 10 years following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures as EPA deems necessary to assure prompt correction of any future $PM_{2.5}$ violations. The Calcagni Memorandum, dated September 4, 1992, provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five requirements: (1) An attainment emissions inventory; (2) a maintenance demonstration showing maintenance for 10 years; (3) a commitment to maintain the existing monitoring network; (4) verification of continued attainment; and (5) a contingency plan to prevent or correct future violations. As is discussed more fully below, EPA proposes to find that the New Jersey maintenance plan includes all the necessary components and is thus proposing to approve it as a revision to the New Jersey SIP.

2. Analysis of the Maintenance Plan

The maintenance demonstration must demonstrate effective safeguards of the NAAQS for at least 10 years following the redesignation showing that future $PM_{2.5}$ and precursor emissions will not exceed the level of the attainment year.

States are required to submit the following inventory elements to satisfy the redesignation/maintenance plan inventory requirements:

Maintenance Plan Attainment Inventory. Maintenance plan provisions include a comprehensive, accurate, and current emissions inventory from all point, area, nonroad and onroad mobile sources for the $PM_{2.5}$ nonattainment area. States are required to develop an attainment inventory to identify the level of emissions in the area that is sufficient to attain the NAAQS. This inventory should include the emissions during the time period associated with the monitoring data showing attainment.

Maintenance Plan Interim Year Inventory. At a minimum, emissions should be projected to a midpoint year between the attainment year and the endpoint/10-year inventory. This inventory provides a summary of controlled emissions for point, area, nonroad and onroad mobile sources for the $PM_{2.5}$ nonattainment area for the interim year inventory.

Maintenance Plan Projected Final Year Inventory. Emissions should be projected from the attainment year to at least 10 years into the future. This inventory provides a summary of controlled emissions for point, area, nonroad and onroad mobile sources at the endpoint/10-year period.

For the NNJ and SNJ $PM_{2.5}$ nonattainment areas, 2007 emissions were projected to 2017 and 2025. New Jersey must demonstrate, with the control programs identified in this SIP, that total 2017 or 2025 projected emissions do not exceed the 2007 emission levels.

Below are EPA's review and evaluation of the maintenance demonstration for the two areas. Additional detail is provided in the TSD.

(a) Attainment Emissions Inventory

Selection of 2007 Base Year as the Maintenance Plan Attainment Year. Inventory An attainment inventory is comprised of the emissions during the time period associated with the monitoring data showing attainment. New Jersey selected 2007 as the attainment inventory year for the SNJ and NNJ $PM_{2.5}$ nonattainment areas for the 1997 annual $PM_{2.5}$ and 2006 24-hour $PM_{2.5}$ standards.

For the 1997 $PM_{2.5}$ annual standard, the NNJ nonattainment area had monitored attainment based on air monitoring data for 2007–2009; and the SNJ nonattainment area had monitored attainment based on air monitoring data for 2007–2009, and 2008–2010. Additionally, for the 2006 24-hour $PM_{2.5}$ standard, the NNJ $PM_{2.5}$ nonattainment area had monitored attainment for 2007–2009, and 2008–1010; and the SNJ $PM_{2.5}$ nonattainment area had monitored attainment for 2008–2010, and 2009–2011.

Historically for the attainment inventory, the state would select an attainment year inventory characterizing emissions in the maintenance area from one of the three years in the three-year period in which the state monitored attainment. For the SNJ $PM_{2.5}$ nonattainment area, New Jersey should have selected 2008 or 2009 as the attainment year inventory for the 2006 24-hour $PM_{2.5}$ standard. However, the state believes that the 2007 inventory is an appropriate and representative inventory to use as a surrogate attainment inventory for the 2008 inventory for the SNJ $PM_{2.5}$ nonattainment area for the 2006 24-hour $PM_{2.5}$ standard for several reasons discussed:

- The 2007 inventory is the most comprehensive inventory developed by states in the region for SIP purposes.
- For all of the available data, the monitors in the SNJ nonattainment area showed compliance with the 2006 24-hour $PM_{2.5}$ standard of 35 $\mu g/m^3$ during the 2007–2009 monitoring period. However, there was some incomplete data for 2007 in the SNJ area that was not able to be addressed through data substitution and statistical analysis. Incomplete data also existed for the 2008–2010 monitoring period, but was able to be addressed through data substitution and statistical analysis.[14]
- The monitors in the NNJ $PM_{2.5}$ nonattainment area showed compliance with the 35 $\mu g/m^3$ daily standard during the 2007–2009 monitoring period.
- The 2007 and 2008 emission inventories are comparable, as demonstrated by a comparison of New Jersey's 2007 inventory with USEPA's 2008 National Emissions Inventory (NEI).

[14] See TSD in EPA Docket ID Number EPA–R03–OAR–2012–0371 at *www.regulations.gov* for discussion of EPA's procedure for addressing missing data not meeting completeness requirements for monitors in the PA-NJ-DE nonattainment area for the 2006 NAAQS.

• Most important, comparison of the 2008 to the 2017 and 2025 inventories, shows that emissions will continue to decrease and will be well below the 2007 and 2008 levels for $PM_{2.5}$ and its precursors, NO_X, and SO_2, in the SNJ $PM_{2.5}$ nonattainment area.

For these reasons, the state selected the 2007 inventory as a surrogate for the 2008 inventory. EPA proposes to concur that the 2007 base year emissions inventory is appropriate as the attainment year inventory for the $PM_{2.5}$ redesignation maintenance plan.

Criteria for Approval of the Maintenance Plan Attainment Year Inventory. There are general and specific components of an acceptable emission inventory. In general, the State must submit a revision to its SIP and the emission inventory must meet the minimum requirements for reporting by source category.

For a base year emission inventory to be acceptable it must pass all of the following acceptance criteria:

1. Evidence that the inventory was quality assured by the state and its implementation documented.

2. The point source inventory must be complete.

3. Point source emissions must have been prepared or calculated according to the current EPA guidance.

4. The area source inventory must be complete.

5. The area source emissions must have been prepared or calculated according to the current EPA guidance.

6. Non-road mobile emissions were prepared according to current EPA guidance for all of the source categories.

7. The method (e.g., Highway Performance Monitoring System or a network transportation planning model) used to develop VMT estimates must follow EPA guidance. The VMT development methods must be adequately described and documented in the inventory report.

8. The Motor Vehicle Emission Simulator (MOVES) model must be correctly used to produce emission factors for each of the vehicle classes.

EPA's Evaluation of the Maintenance Plan Attainment Year Inventory

Quality Assurance Plan Implementation

The Quality Assurance (QA) plan was implemented for all portions of the inventory. QA checks were performed relative to data collection and analysis, and double counting of emissions from point, area and mobile sources. QA/QC checks were conducted to ensure accuracy of units, unit conversions, transposition of figures, and calculations.

Point and Area Source Inventories

New Jersey's inventory includes major point sources based on specific thresholds for each pollutant in tons per year (tpy). The inventory report describes how point and area source activity levels and their associated parameters were developed, and how the data were used to calculate emission estimates. The inventory lists the source categories that are included in (and excluded from) the area source inventory. The report provides referenced documents for activity level and emission factors used. Information on how control efficiencies were derived (with the associated sample calculations) is also provided. Point and area source summary information on detailed county and/or nonattainment area levels, are included in the inventory. Where applicable, annual emissions are provided for $PM_{2.5}$, NO_x, SO_2, VOC and NH_3 for the $PM_{2.5}$ nonattainment areas.

The primary sources of anthropogenic NH_3 emissions are two agricultural operations, livestock and fertilizer. NH_3 emissions from livestock and fertilizer were prepared by the USEPA using the Carnegie Mellon University (CMU) Ammonia Model, version 6. The model runs are based on 2007 activity levels. NH_3 emissions for industrial refrigeration, composting, and publicly owned treatment works were prepared by the USEPA.

Nonroad Mobile Source Inventory

For New Jersey, the predominant non-road mobile source categories (i.e., agricultural equipment, construction equipment, industrial equipment, airport service equipment, light commercial equipment, lawn and garden equipment,etc.) were developed by the Nonroad Emissions Equipment Model 2008 released by EPA's Office of Transportation and Air Quality (OTAQ). Nonroad mobile source emissions are presented on a source category, county and/or nonattainment area basis. Where applicable, annual emissions are provided for $PM_{2.5}$, NO_X, SO_2, VOC and NH_3 for the $PM_{2.5}$ nonattainment areas.

Aircraft, Locomotive and Commercial Marine Vessel Inventories

Where applicable, aircraft, locomotive, and commercial marine vessel emissions on a county and/or nonattainment area basis are provided for $PM_{2.5}$, NO_X, SO_2, VOC and NH_3. Activity level and emissions data for each source category is provided. Aircraft, locomotive and commercial marine vessel source emissions are presented on a source category, county and/or nonattainment area basis. Where applicable, annual emissions are provided for $PM_{2.5}$, NO_X, SO_2, VOC and NH_3 for $PM_{2.5}$ nonattainment areas.

Onroad Mobile Source Inventory

New Jersey's mobile source inventory was developed by using the travel demand model (TDM) used by the two Metropolitan Planning Organizations in the States as the basis for estimating actual county level and functional class VMT estimates. Estimates were developed from the aforementioned sources for each roadway functional class, by county, in each of the $PM_{2.5}$ nonattainment areas. MOVES2010a Model was used to generate emission factors for on-road vehicle emission estimates. It provides the sources for the key inputs into the mobile source emissions model. Key assumptions are also included. Where applicable, $PM_{2.5}$, NO_X, SO_2, VOC and NH_3 mobile emissions are presented on county and/or nonattainment area basis. Where applicable, annual emissions are provided for $PM_{2.5}$, NO_X, SO_2, VOC and NH_3 for $PM_{2.5}$ nonattainment areas.

Tables 7A and 7B below show the 2007 base year $PM_{2.5}$, NO_X, SO_2, VOC and NH_3 annual emission inventories for the NNJ and SNJ $PM_{2.5}$ nonattainment areas.

TABLE 7A—2007 NNJ AREA BASE YEAR INVENTORY

[In tons/year]

Pollutant	Point	Area	Nonroad mobile	Onroad mobile	Total
$PM_{2.5}$	4,937	5,498	2,497	3,677	16,610
NO_X	15,828	16,122	39.457	93,385	164,793
SO_X	20,360	4,983	5,761	586	31,690
VOC	7,584	60,560	26,833	47,490	142,667

TABLE 7A—2007 NNJ AREA BASE YEAR INVENTORY—Continued

[In tons/year]

Pollutant	Point	Area	Nonroad mobile	Onroad mobile	Total
NH_3	804	2,909	37	2,101	5,840

TABLE 7B—2007 SNJ AREA BASE YEAR INVENTORY

[In tons/year]

Pollutant	Point	Area	Nonroad mobile	Onroad mobile	Total
$PM_{2.5}$	800	2,837	560	1,055	5,159
NO_X	4,453	3,483	6,790	26,992	41,718
SO_X	2,034	1,128	1,642	161	4,965
VOC	2,041	17,184	6,490	10,880	36,594
NH_3	53	1,032	12	462	1,559

EPA is proposing to approve the 2007 base year inventory for $PM_{2.5}$, NO_X, SO_2, VOC and NH_3 for the NNJ and SNJ $PM_{2.5}$ nonattainment areas. The 2007 Maintenance Plan Attainment Year/Base Year emissions inventory is comprehensive, accurate, and current for all sources of relevant pollutants in the nonattainment area. In all cases the 2007 attainment/base year inventory was done in accordance with EPA guidance. The technical support document provides additional information regarding the review conducted by EPA for the 2007 $PM_{2.5}$ base year inventory.

(b) 2017 Interim and 2025 End Year Projection Inventories

Criteria for Approval of the 2017 Interim and 2025 Projection End Year Inventories. There are general and specific components for acceptable 2017 Maintenance Plan Interim and 2025 End Year Projection Inventories. In general, the State must submit a revision to its SIP and the aforementioned components must meet certain minimum requirements for reporting by source category.

For the projection inventories to be acceptable they must pass the following acceptance criteria: [15]

1. Were the 2017 and 2025 projection inventories developed in accordance with the procedures outlined in EPA's latest guidance?

2. Were the Plans developed in accordance with EPA's latest guidance for Growth Factors, Projections, and Control Strategies for Reasonable Progress Goal Plans?

EPA's Evaluation of the Maintenance Plan 2017 Interim and 2025 End Year Projection Inventories. A projection of 2007 $PM_{2.5}$, NO_X, and SO_2 anthropogenic emissions to 2017 and 2025 is required to determine the emission reductions needed for inventory maintenance plan. The 2017 and 2025 projection year emission inventories are calculated by multiplying the 2007 base year inventory by factors which estimate growth from 2007 to 2017 and 2025. A specific growth factor for each source type in the inventory is required since sources typically grow at different rates.

Major Point Sources

Electric Generating Units (EGU) and Non-Electric Generating Units (Non-EGUs)

For the major point source category, the projected emissions inventories were first calculated by estimating growth in each source category. As appropriate, the 2007 emissions inventory was used as the base for applying factors to account for inventory growth. The point source inventory was grown from the 2007 inventory to 2017 and 2025 for each facility using growth factors utilized in New Jersey's Emissions Statement Program, US Department of Energy's (USDOE) Annual Energy Outlook projections, and NJ Department of Labor statistics.

Area Sources

For the area source category, New Jersey projected emissions from 2007 to 2017 and 2025 using growth factors generated from USDOE 2011 Annual Energy Outlook, and state-supplied population and employment data, where appropriate.

Non-Road Mobile Sources

Nonroad Vehicle Equipment Emissions

Non-road vehicle equipment emissions were projected from 2007 to 2017 and 2025 using the EPA's NONROAD 2008a model (July 2009 version). This model was used to calculate past and future emission inventories for all nonroad equipment categories except commercial marine vessels, locomotives and aircrafts. Emissions were determined on a monthly basis and combined to provide annual emission estimates.

Aircrafts, Locomotives and Commercial Marine Vessels (CMV)

Aircraft emissions were projected from 2007 to 2017 and 2025 based on landing and takeoff growth factors from the Federal Aviation Administration Terminal Area Forecast System for 2009–2030.

Locomotives emissions were projected from 2007 to 2017 and 2025 based on combined growth and control factors from EPA's regulatory impact analysis (RIA) in May 2008 for control of locomotive engines and USDOE's 2006 Annual Energy Outlook report.

CMV emissions were projected to 2017 and 2025 using EPA's May 2008 RIA report, for category 1 and 2 vessels and EPA's 2009 RIA report for category 3 vessels based on combined growth and control factors.

Onroad Mobile Sources

For the onroad mobile source category, the primary indicator and tool for developing on-road mobile growth and expected emissions are VMT and US EPA's mobile emissions model MOVES2010a. Projection years 2017 and 2025 pollutant emission factors were generated by MOVES2010a (with the associated controlled measures applied, where appropriate) and applied to the monthly VMT projections provided by the State. Monthly emissions were then combined to develop annual emission estimates.

Tables 8A–8C and 9A–9C, show the 2017 and 2025 projection emission inventories controlled after 2007 using the aforementioned growth indicators/

[15] Emission Inventory Improvement Program guidance document titled *Volume X, Emission Projections*, dated December 1999

methodologies for the NNJ and SNJ $PM_{2.5}$ nonattainment areas, respectively.

TABLE 8A—COMPARISON OF 2007, 2017 AND 2025 $PM_{2.5}$ EMISSION TOTALS BY SOURCE SECTOR (TPY) FOR THE NNJ AREA

	$PM_{2.5}$			
Sector	2007	2017	2025	Net change 2008–2025
Point	4,937	3,131	3,243	
Area	5,498	5,436	5,616	
Nonroad	2,497	1,725	1,410	
On-road	3,677	1,874	1,218	
Total	16,610	12,227	11,487	−5,123

TABLE 8B—COMPARISON OF 2007, 2017 AND 2025 NO_X EMISSION TOTALS BY SOURCE SECTOR (TPY) FOR THE NNJ AREA

	NO_X			
Sector	2007	2017	2025	Net change 2008–2025
Point	15,828	13,512	4,126	
Area	16,122	15,969	3,429	
Nonroad	39,457	27,050	4,998	
On-road	93,385	45,687	13,504	
Total	164,793	102,218	26,057	−138,736

TABLE 8C—COMPARISON OF 2007, 2017 AND 2025 SO_2 EMISSION TOTALS BY SOURCE SECTOR (TPY) FOR THE NNJ AREA

	SO_2			
Sector	2007	2017	2025	Net change 2008–2025
Point	20,360	3,583	1,245	
Area	4,983	452	102	
Nonroad	5,761	719	105	
On-road	586	531	129	
Total	31,690	5,295	1,579	−30,111

TABLE 9A—COMPARISON OF 2007, 2017 AND 2025 $PM_{2.5}$ EMISSION TOTALS BY SOURCE SECTOR (TPY) FOR THE SNJ AREA

	$PM_{2.5}$			
Sector	2007	2017	2025	Net change 2008–2025
Point	800	818	858	
Area	2,837	2,243	2,651	
Nonroad	560	372	315	
On-road	1,055	616	278	
Total	5,159	4,549	4,102	−1,057

TABLE 9B—COMPARISON OF 2007, 2017 AND 2025 NO_x EMISSION TOTALS BY SOURCE SECTOR (TPY) FOR THE SNJ AREA

	NO_X			
Sector	2007	2017	2025	Net change 2008–2025
Point	4,453	4,126	4,433	
Area	3,483	3,429	3,427	

TABLE 9B—COMPARISON OF 2007, 2017 AND 2025 NO_x EMISSION TOTALS BY SOURCE SECTOR (TPY) FOR THE SNJ AREA—Continued

NO_X				
Sector	2007	2017	2025	Net change 2008–2025
Nonroad	6,790	4,998	3,915	
On-road	26,992	13,504	6,095	
Total	41,718	26,057	17,870	−23,848

TABLE 9C—COMPARISON OF 2007, 2017 AND 2025 SO_2 EMISSION TOTALS BY SOURCE SECTOR (TPY) FOR THE SNJ AREA

SO_2				
Sector	2007	2017	2025	Net change 2008–2025
Point	2,034	1,245	1,355	
Area	1,128	102	260	
Nonroad	1,642	105	141	
On-road	161	129	161	
Total	4,965	1,579	1,880	−3,085

The permanent and enforceable control measures that are relied on to provide continued attainment or maintenance of the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS are listed as maintenance plan measures in tables 5 (A thru B) and 6 (A thru B). New Jersey has already implemented, or adopted these control measures, some with future implementation dates. Additional information regarding the control measures can be found in the TSD. EPA is proposing to approve the 2017 interim and 2025 projection inventories for $PM_{2.5}$, NO_X and SO_2 for the NNJ and SNJ $PM_{2.5}$ nonattainment areas. In all cases the 2017 and 2025 projection year inventories were performed in accordance with EPA guidance. For further information concerning EPA's evaluation and analysis of the emission inventories, see the TSD available in the docket.

Tables 8A–9C above show the inventories for the 2007 attainment year, the 2017 interim year, and the 2025 endpoint year for the NNJ and SNJ $PM_{2.5}$ nonattainment areas. Table 8A–9C show that between 2007 and 2017, the NNJ and SNJ $PM_{2.5}$ nonattainment areas, are projected to reduce SO_2, NO_X and $PM_{2.5}$ emissions substantially. Between 2007 and 2025, the NNJ and SNJ areas are projected to reduce emissions well below the 2007 attainment inventory emission levels for all three pollutants. Thus, the projected emissions inventories show that the NNJ and SNJ areas will continue to maintain the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS during the 10 year maintenance period.

Maintenance Demonstration Thru 2025

As noted in section VI.E.1, CAA section 175A requires a state seeking redesignation to attainment to submit a SIP revision to provide for the maintenance of the NAAQS in the area "for at least 10 years after the redesignation." EPA has interpreted this as a showing of maintenance "for a period of 10 years following redesignation." *See* Calcagni Memorandum. Where the emissions inventory method of showing maintenance is used, its purpose is to show that emissions during the maintenance period will not increase over the attainment year inventory. See Calcagni Memorandum.

As discussed in detail above, the State's maintenance plan submission expressly documents that the NNJ and SNJ $PM_{2.5}$ nonattainment areas' emissions inventories will remain below the attainment year inventories through at least 2025. In addition, for the reasons set forth below, EPA proposes to determine that the State's submission further demonstrates that the NNJ and SNJ $PM_{2.5}$ nonattainment areas will continue to maintain the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS at least through 2025:

- As explained in the previous section, levels of SO_2, NO_X, and $PM_{2.5}$ are projected to decrease substantially between 2007 and 2025. EPA believes that it is highly improbable that sudden increases would occur that could exceed the attainment year inventory levels in 2025.
- Air quality concentrations for $PM_{2.5}$ are 1 to 2 $\mu g/m^3$ or more under the NAAQS level, indicating a margin of safety in the event of any emissions increase. As shown in tables 1 and 2, for the 1997 annual NAAQS of 15 $\mu g/m^3$, the design value for 2009–2011 for the NY-NJ-CT $PM_{2.5}$ nonattainment area value was 11.7 $\mu g/m^3$; and the design value for 2009–2011 for the PA-NJ-DE $PM_{2.5}$ nonattainment area was measured at 13.7 $\mu g/m^3$. As shown in tables 3 and 4, for the 2006 $PM_{2.5}$ NAAQS of 35 $\mu g/m^3$, the design value for 2009–2011 for the NY-NJ-CT $PM_{2.5}$ nonattainment area was 30 $\mu g/m^3$; and the design value for 2009–2011 for the PA-NJ-DE $PM_{2.5}$ nonattainment area was measured at 33 $\mu g/m^3$.
- Air quality concentrations showed a significant downward trend over time for both the NY-NJ-CT and PA-NJ-DE $PM_{2.5}$ nonattainment areas for both the 1997 and 2006 $PM_{2.5}$ NAAQS. See figures 3 thru 6 of the New Jersey redesignation request, which is available in the docket.
- Additional emissions reductions will occur now, and in the future, from EPA's Mercury and Air Toxics Standards (MATS) [16], New Jersey's Diesel Retrofit Program, NJDEP's amended Administrative Consent Order with B.L. England, and from New Jersey's Clean Construction Program. See the TSD for more information regarding these measures, including expected emission reductions.

[16] 77 FR 9304 (February 16, 2012).

(c) Maintenance Plan and Evaluation of Precursors

With regard to the redesignation of NNJ and SNJ areas, in evaluating the effect of the D.C. Circuit's remand of EPA's implementation rule, which included presumptions against consideration of VOC and NH_3 as $PM_{2.5}$ precursors, in this proposal EPA is also considering the impact of the decision on the maintenance plan required under sections 175A and 107(d)(3)(E)(iv). To begin with, EPA notes that the area has attained the 1997 and 2006 $PM_{2.5}$ standards and that the state, as shown below, has shown that attainment of that standard is due to permanent and enforceable emission reductions.

EPA proposes to determine that the State's maintenance plan shows continued maintenance of the 1997 $PM_{2.5}$ and 2006 $PM_{2.5}$ NAAQS by tracking the levels of the precursors whose control brought about attainment of the standards in the NNJ and SNJ nonattainment areas. EPA therefore determines that the additional consideration related to the maintenance plan requirements that results from the Court's January 4, 2013 decision is that of assessing the potential role of VOC and NH_3 in demonstrating continued maintenance in this area. As explained below, based upon documentation provided by the State and supporting information, EPA believes that the maintenance plan for the NNJ and SNJ nonattainment areas need not include any additional emission reductions of VOC or NH_3 in order to provide for continued maintenance of the standard.

First, as noted above in EPA's discussion of section 189(e), VOC emission levels in this area have historically been well-controlled under SIP requirements related to ozone and other pollutants. Second, total NH_3 emissions for the NNJ and SNJ area are very low, estimated to be less than 6,000 and 1,600 tons per year, respectively. *See* Tables 7A and 7B. This amount of NH_3 emissions appears especially small in comparison to the total amounts of SO_2, NO_X, and even $PM_{2.5}$ emissions from sources in the areas. Third, as described below, available information shows that no precursor, including VOC and NH_3, is expected to increase over the maintenance period so as to interfere with or undermine the State's maintenance demonstration.

NNJ and SNJ areas' maintenance plans show that emissions of direct $PM_{2.5}$, SO_2, and NO_X are projected to decrease substantially over the maintenance period. *See* Tables 8A–9C. In addition, emissions inventories used in the RIA for the 2012 $PM_{2.5}$ NAAQS show that VOC and NH_3 emissions for the NNJ and SNJ areas are projected to decrease substantially from 2007 through 2020. *See* Tables 10A and 10B below. While the RIA emissions inventories are only projected out to 2020, there is no reason to believe that this downward trend would not continue through 2025. Given that the NNJ and SNJ areas are already attaining the 1997 $PM_{2.5}$ and 2006 $PM_{2.5}$ NAAQS with the current level of emissions from sources in the area, the downward trend of emissions inventories would be consistent with continued attainment. Indeed, projected emissions reductions for the precursors that the State is addressing for purposes of the 1997 $PM_{2.5}$ and 2006 $PM_{2.5}$ NAAQS indicate that the areas should continue to attain the NAAQS following the precursor control strategy that the state has already elected to pursue. Even if VOC and NH_3 emissions were to increase unexpectedly between 2020 and 2025, the overall emissions reductions projected in direct $PM_{2.5}$, SO_2, and NO_X would be sufficient to offset any increases. For these reasons, EPA proposes to determine that local emissions of all of the potential $PM_{2.5}$ precursors will not increase to the extent that they will cause monitored $PM_{2.5}$ levels to violate the 1997 $PM_{2.5}$ and 2006 $PM_{2.5}$ standards during the maintenance period.

TABLE 10A—COMPARISON OF 2007 AND 2020 VOC AND NH_3 EMISSION TOTALS BY SOURCE SECTOR (TPY) FOR THE NNJ AREA [17]

Sector	VOC			NH_3		
	2007	2020	Net change 2007–2020	2007	2020	Net change 2007–2020
Point	7,150	7,508		852	1,301	
Area	59,925	60,657		2,810	2,872	
Nonroad	29,203	16,613		28	34	
On-road	44,389	15,285		2,433	1,243	
Total	140,667	100,063	−40,604	6,123	5,450	−703

TABLE 10B—COMPARISON OF 2007 AND 2020 VOC AND NH_3 EMISSION TOTALS BY SOURCE SECTOR (TPY) FOR THE SNJ AREA [18]

Sector	VOC			NH_3		
	2007	2020	Net change 2007–2020	2007	2020	Net change 2007–2020
Point	1,874	1,837		123	159	
Area	18,140	18,488		1,075	1,103	
Nonroad	7,023	3,890		10	12	
On-road	9,072	3,295		469	263	
Total	36,109	27,150	−8,959	1,677	1,527	−150

[17] These emissions estimates were taken from the emissions inventories developed for the RIA for the 2012 $PM_{2.5}$ NAAQS.

[18] These emissions estimates were taken from the emissions inventories developed for the RIA for the 2012 $PM_{2.5}$ NAAQS.

In addition, available air quality modeling analyses show continued maintenance of the standard during the maintenance period. The modeling analysis conducted for the RIA for the 2012 $PM_{2.5}$ NAAQS indicates that the design value for this area is expected to continue to decline through 2020. In the RIA analysis, the 2020 modeled design value is 10.8 $\mu g/m^3$ for the NY-NJ-CT nonattainment area, and 9.4 $\mu g/m^3$ for the PA-NJ-DE nonattainment area. Given that precursor emissions are projected to decrease through 2025, it is reasonable to conclude that monitored $PM_{2.5}$ levels in this area will also continue to decrease through 2025.

Thus, EPA proposes to determine that there is ample justification to conclude that the NNJ and SNJ areas should be redesignated, even taking into consideration the emissions of other precursors potentially relevant to $PM_{2.5}$. After consideration of the D.C. Circuit's January 4, 2013 decision, and for the reasons set forth in this notice, EPA proposes to approve the State's maintenance plan and its request to redesignate the NNJ and SNJ nonattainment areas to attainment for the 1997 $PM_{2.5}$ annual and the 2006 $PM_{2.5}$ 24-hour standards.

(d) Monitoring Network

New Jersey has committed to tracking the air quality for continued attainment of the $PM_{2.5}$ NAAQS, and will work with EPA prior to making any changes to the existing $PM_{2.5}$ air monitoring network.

The State is obligated to work with EPA each year through the air monitoring network review process, as required by 40 CFR Part 58 to determine: (1) The adequacy of the $PM_{2.5}$ monitoring network; (2) if additional monitoring is needed; and (3) if/when sites can be discontinued or relocated. Any changes to the monitoring network, including replacing or moving monitor(s) to new locations, as necessary, will be made through the air monitoring network review process. This review process undergoes a public comment period, and is subject to approval by the EPA. Air monitoring data will continue to be quality assured according to requirements in 40 CFR Part 58.

EPA proposes to conclude that the State of New Jersey has met the requirement for continuing to operate an appropriate air monitoring network.

(e) Verification of Continued Attainment

Continued attainment of the $PM_{2.5}$ NAAQS in the state depends, in part, on the state's efforts towards tracking indicators of continued attainment during the maintenance period. New Jersey's plan for verifying continued attainment of the $PM_{2.5}$ NAAQS consists of continued ambient $PM_{2.5}$ air quality monitoring in accordance with the requirements of 40 CFR Part 58. New Jersey will also continue to develop and submit periodic emission inventories as required by the Federal Consolidated Emissions Reporting Rule (codified at 40 CFR Part 51, subpart A).

EPA proposes to approve New Jersey's plans for verifying continued attainment of the $PM_{2.5}$ NAAQS.

(f) Contingency Measures in the Maintenance Plan

Section 175A of the CAA requires that a maintenance plan include such contingency provision as EPA deems necessary to ensure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation of the contingency measures, and a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be adopted and implemented. The maintenance plan must include a requirement that the state will implement all measures with respect to control of the pollutant(s) that were contained in the SIP before redesignation of the area to attainment. See section 175A(d) of the CAA.

As required by section 175A of the CAA, New Jersey has included contingency provisions in the maintenance plan to address possible future annual $PM_{2.5}$ air quality problems. New Jersey will use the following triggers to determine the cause of elevated levels, and implement contingency measures, as necessary, in accordance with the described schedule:

1. If monitored $PM_{2.5}$ concentrations in any year exceed the level of the NAAQS, NJDEP will perform a data assessment to determine the cause of the violation. This assessment will be performed when the annual average $PM_{2.5}$ concentration for the previous year exceeds 15 $\mu g/m^3$ at any New Jersey monitoring site, or when the 98th percentile of the 24-hour average daily concentrations exceeds 35 $\mu g/m^3$ at any New Jersey air monitoring site. NJDEP will perform this evaluation within six months of the data certification. New Jersey will work with the other states in its shared multi-state nonattainment areas as necessary.

2. If annual or 24-hour $PM_{2.5}$ design values exceed 15 $\mu g/m^3$ or 35 $\mu g/m^3$, respectively, NJDEP will evaluate all appropriate data to determine the cause using the same analyses discussed in Item number 1. NJDEP will perform this evaluation within six months of the determination of a violation.

3. Based on any findings, New Jersey will make a judgment on whether the violation was caused by an exceptional event or a violation of an existing rule or permit. The State will rely on one or more of the following contingency measures for any other violation:

—Onroad Vehicle Fleet Turnover
—Nonroad Vehicle and Equipment Fleet Turnover
—Low Sulfur Fuel Rule N.J.A.C. 7:27–9 (prior to July 2016)
—Diesel Retrofit Program, Diesel Inspection and Maintenance Program, N.J.A.C. 7:27–14 and 32

4. If necessary, New Jersey will evaluate the feasibility and applicability of additional measures, how they relate to the cause and location of the violation, and if these additional measures would correct the violation. These may include:

—New control measures that have been adopted for other purposes
—Residential wood burning strategies
—Fugitive dust reductions at stationary sources
—Lower particulate limits for No. 6 fuel oil-fired boilers
—Lower particulate limits for stationary diesel engines
—Working with the local metropolitan planning agencies to implement transportation control measures

NJDEP will perform this evaluation within six months of the determination of a violation. If it is determined that a new rule is required or appropriate to correct a violation of the NAAQS, NJDEP will propose a new rule within 18 month, and take final action within 30 months, of the determination of a violation.

New Jersey is relying on existing measures, which are already implemented, or have been adopted with future implementation dates, to promptly correct any violation of the NAAQS. The state has also included a commitment to further evaluate additional measures, if necessary and appropriate. EPA proposes to find that the New Jersey maintenance plan includes appropriate contingency measures to promptly correct any violation of the NAAQS that occurs after redesignation.

Maintenance Plan Conclusion

For all of the reasons discussed above, EPA is proposing to approve New Jersey's 1997 annual and 2006 24-hour $PM_{2.5}$ maintenance plan for the NNJ and

SNJ areas as meeting the requirements of section 175A of the CAA.

VII. What is EPA's analysis of New Jersey's proposed NO_X and $PM_{2.5}$ motor vehicle emission budgets?

Under section 176(c) of the CAA, new transportation plans, programs, and projects, such as the construction of new highways, must "conform" to (i.e., be consistent with) the part of the state's air quality plan that addresses pollution from cars and trucks. Conformity to the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS or any interim milestones. If a transportation plan does not conform, most new projects that would expand the capacity of roadways cannot go forward. Regulations at 40 CFR Part 93 set forth EPA policy, criteria, and procedures for demonstrating and assuring conformity of such transportation activities to a SIP. The regional emissions analysis is one, but not the only, requirement for implementing transportation conformity. Transportation conformity is a requirement for nonattainment and maintenance areas.

Under the CAA, states are required to submit, at various times, control strategy SIPs and maintenance plans for nonattainment areas. These control strategy SIPs (including RFP and attainment demonstrations) and maintenance plans create motor vehicle emissions budgets (MVEBs or budgets) for criteria pollutants and/or their precursors to address pollution from cars and trucks. Per 40 CFR Part 93, an MVEB must be established for the last year of the maintenance plan. A state may adopt MVEBs for other years as well. The MVEB is the portion of the total allowable emissions in the maintenance demonstration that is allocated to highway and transit vehicle use and emissions. The MVEB serves as a ceiling on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, Transportation Conformity Rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and how to revise the MVEB.

New Jersey has developed MVEBs for both the NNJ and SNJ nonattainment areas. The budgets are being established for both the 1997 annual and 2006 daily $PM_{2.5}$ standards. New Jersey determined that budgets based on annual emissions of direct $PM_{2.5}$ and NO_X, a precursor, are appropriate for the 2006 daily standard because exceedences of the standard were not isolated to one particular season; therefore, the budgets established by this maintenance plan will be used by transportation agencies to meet conformity requirements for both the annual and daily standards.

New Jersey developed these MVEBs, as required, for the last year of its maintenance plan, 2025, and an additional year, 2009, for the purpose of establishing budgets for the near-term based on EPA's MOVES model. Previously established and approved MVEBs had been based on MOBILE6.2.

The 2009 MVEB was developed without an accompanying full emissions inventory. EPA proposes to approve this approach that is consistent with attainment and maintenance of both the 1997 and 2006 $PM_{2.5}$ standards because of our earlier determinations that both the NY-NJ-CT and the PA-NJ-DE nonattainment areas had attained the standards based on monitored air quality that included the year 2009 (see section II.A.).

The MVEBs for 2025 reflect the total on-road emissions for 2025, plus an allocation from the available NO_X and $PM_{2.5}$ safety margins. Under 40 CFR 93.101, the term "safety margin" is the difference between the attainment level (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The safety margin can be allocated to the transportation sector; however, the total emissions must remain below the attainment level. New Jersey chose to add 8% of the available safety margin to both the $PM_{2.5}$ and NO_X budgets for 2025 for both the NNJ and SNJ nonattainment areas. The NO_X and $PM_{2.5}$ MVEBs and safety margin allocations were developed in consultation with the transportation partners and were added to accommodate expected future improvements to MOVES model inputs and methodologies.

In the submittal, the State has also established "sub-area budgets" for the two metropolitan planning organizations (MPO) within the NNJ nonattainment area: the North Jersey Transportation Planning Authority (NJTPA) and the Delaware Valley Regional Planning Commission (DVRPC). These sub-area budgets allow each MPO to work independently to demonstrate conformity by meeting its own $PM_{2.5}$ and NO_X budgets. Each MPO must still verify, however, that the other MPO currently has a conforming long range transportation plan and transportation improvement program (TIP) prior to making a new plan/TIP conformity determination. The MVEBs for both the NNJ and SNJ areas are defined in Tables 11 (A thru D) below.

TABLE 11A—2009 $PM_{2.5}$ AND NO_X MVEBS FOR NNJ FOR BOTH THE 1997 ANNUAL AND 2006 DAILY $PM_{2.5}$ NAAQS

[Tons/year]

MPO/Subarea	Direct $PM_{2.5}$	NO_X
NJTPA	2,736	67,272
DVRPC (Mercer County)	224	5,835

TABLE 11B—2025 $PM_{2.5}$ AND NO_X MVEBS FOR NNJ FOR BOTH THE 1997 ANNUAL AND 2006 DAILY $PM_{2.5}$ NAAQS

[Tons/year]

MPO/Subarea	Direct $PM_{2.5}$	NO_X
NJTPA	1,509	25,437
DVRPC (Mercer County)	119	2,551

TABLE 11C—2009 $PM_{2.5}$ AND NO_X MVEBS FOR SNJ FOR BOTH THE 1997 ANNUAL AND 2006 DAILY $PM_{2.5}$ NAAQS

[Tons/year]

MPO	Direct $PM_{2.5}$	NO_X
DVRPC (Burlington, Camden, and Gloucester Counties)	680	18,254

TABLE 11D—2025 $PM_{2.5}$ AND NO_X MVEBS FOR SNJ FOR BOTH THE 1997 ANNUAL AND 2006 DAILY $PM_{2.5}$ NAAQS

[Tons/year]

MPO	Direct $PM_{2.5}$	NO_X
DVRPC (Burlington, Camden, and Gloucester Counties)	363	8,003

As mentioned above, New Jersey has chosen to allocate a portion of the available safety margin to the NO_X and $PM_{2.5}$ MVEBs for 2025. Details of this allocation are shown in Tables 12 (A thru D) below.

TABLE 12A—DIRECT $PM_{2.5}$ MVEB SAFETY MARGIN ALLOCATION FOR NNJ

[Tons/year]

MPO/Subarea	On-Road inventory for 2025	Total reduction from all sources, 2007 to 2025	Safety margin (8% of total reduction)	2025 MVEB
NJTPA	1,128	4,766	381	1,509
DVRPC (Mercer County)	90	358	29	119

TABLE 12B—NO_X MVEB SAFETY MARGIN ALLOCATION FOR NNJ

[Tons/year]

MPO/Subarea	On-Road inventory for 2025	Total reduction from all sources, 2007 to 2025	Safety margin (8% of total reduction)	2025 MVEB
NJTPA	18,626	85,142	6,811	25,437
DVRPC (Mercer County)	1,920	7,881	630	2,551

TABLE 12C—DIRECT $PM_{2.5}$ MVEB SAFETY MARGIN ALLOCATION FOR SNJ

[Tons/year]

MPO/Subarea	On-Road inventory for 2025	Total reduction from all sources, 2007 to 2025	Safety margin (8% of total reduction)	2025 MVEB
DVRPC (Burlington, Camden, and Gloucester Counties)	278	1,056	85	363

TABLE 12D—NO_X MVEB SAFETY MARGIN ALLOCATION FOR SNJ

[Tons/year]

MPO/Subarea	On-Road inventory for 2025	Total reduction from all sources, 2007 to 2025	Safety margin (8% of total reduction)	2025 MVEB
DVRPC (Burlington, Camden, and Gloucester Counties)	6,095	23,848	1,908	8,003

EPA is proposing to approve the 2009 and 2025 MVEBs for NO_X and $PM_{2.5}$ for NNJ and SNJ because EPA has determined that the areas will maintain both the 1997 annual and 2006 24-hr $PM_{2.5}$ NAAQS with on-road vehicle emissions capped at the levels set by the budgets. EPA's review thus far indicates that the budgets meet the adequacy criteria set forth by 40 CFR 93.118(e)(4), as follows:

(i) *The submitted control strategy implementation plan revision or maintenance plan was endorsed by the Governor (or his or her designee) and was subject to a State public hearing:* The SIP revision was submitted to EPA by the Commissioner of the New Jersey Department of Environmental Protection, who is the Governor's designee.

(ii) *Before the control strategy implementation plan or maintenance plan was submitted to EPA, consultation among Federal, State, and local agencies occurred; full implementation plan documentation was provided to EPA; and EPA's stated concerns, if any, were addressed:* New Jersey conducted an interagency consultation process involving EPA and USDOT, the New Jersey Department of Transportation and affected MPOs. All comments and concerns were addressed prior to the final submittal.

(iii) *The motor vehicle emissions budget(s) is clearly identified and precisely quantified:* The MVEB was clearly identified and quantified and is reiterated here in Tables 11A–11D.

(iv) *The motor vehicle emissions budget(s), when considered together with all other emissions sources, is consistent with applicable requirements for maintenance:* Both the 2009 and 2025 MVEB are less than the on-road mobile source inventory for 2007 that was shown to be consistent with attainment and maintenance of the standards. In addition, the 2009 budgets are for a year in which EPA has determined that New Jersey attained the applicable air quality standards and are therefore consistent with maintenance of the respective standards.

(v) *The motor vehicle emissions budget(s) is consistent with and clearly related to the emissions inventory and*

the control measures in the submitted control strategy implementation plan revision or maintenance plan: The MVEB were developed from the on-road mobile source inventories, including all applicable state and Federal control measures. Inputs related to inspection and maintenance and fuels are consistent with New Jersey's Federally-approved control programs.

(vi) *Revisions to previously submitted control strategy implementation plans or maintenance plans explain and document any changes to previously submitted budgets and control measures; impacts on point and area source emissions; any changes to established safety margins (see § 93.101 for definition); and reasons for the changes (including the basis for any changes related to emission factors or estimates of vehicle miles traveled):* The submitted maintenance plan establishes new 2009 and 2025 budgets to ensure continued maintenance of the standards; therefore, this in not applicable.

Once the budgets are approved or found adequate (whichever is completed first), they must be used for future conformity determinations.

VIII. What is the status of EPA's adequacy determination for the proposed NO_X and $PM_{2.5}$ MVEBs for 2009 and 2025 for Northern and Southern New Jersey?

When reviewing submitted "control strategy" SIPs or maintenance plans containing MVEBs, EPA may affirmatively find the MVEB contained therein adequate for use in determining transportation conformity. Once EPA affirmatively finds the submitted MVEB is adequate for transportation conformity purposes, that MVEB must be used by state and Federal agencies in determining whether proposed transportation projects conform to the SIP as required by section 176(c) of the CAA.

EPA's substantive criteria for determining adequacy of a MVEB are set out in 40 CFR 93.118(e)(4), and our review of New Jersey's submission in the context of these criteria was presented in section VII. The process for determining adequacy consists of three basic steps: Public notification of a SIP submission, a public comment period, and EPA's adequacy determination. This process for determining the adequacy of submitted MVEBs for transportation conformity purposes was initially outlined in EPA's May 14, 1999, guidance, "Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision." EPA adopted regulations to codify the adequacy process in the Transportation Conformity Rule Amendments for the "New 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments—Response to Court Decision and Additional Rule Change," on July 1, 2004 (69 FR 40004). Additional information on the adequacy process for transportation conformity purposes is available in the proposed rule entitled, "Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Changes," 68 FR 38974, 38984 (June 30, 2003).

As discussed earlier, New Jersey's maintenance plan submission includes NO_X and $PM_{2.5}$ MVEBs for the NNJ and SNJ maintenance areas for 2009 and 2025. EPA reviewed the NO_X and $PM_{2.5}$ MVEBs through the adequacy process. The New Jersey SIP submission, including the NO_X and $PM_{2.5}$ MVEBs, was open for public comment on EPA's adequacy Web site on September 12, 2012, found at: *http://www.epa.gov/otaq/stateresources/transconf/currsips.htm*. The public comment period closed on October 12, 2012. EPA did not receive any comments on the adequacy of the MVEBs, nor did EPA receive any requests for the SIP submittal.

EPA intends to make its determination on the adequacy of the 2009 and 2025 MVEBs for NNJ and SNJ for transportation conformity purposes in the near future by completing the adequacy process that was started on September 12, 2012. After EPA finds the MVEBs adequate or approves them, the new MVEBs for NO_X and $PM_{2.5}$ must be used for future transportation conformity determinations.

IX. What action is EPA proposing to take?

EPA is proposing to approve New Jersey's request for redesignating the NNJ and SNJ $PM_{2.5}$ nonattainment areas for the 1997 and 2006 $PM_{2.5}$ NAAQS to attainment, because the State has demonstrated compliance with the requirements of section 107(d)(3)(E) for redesignation. EPA has evaluated New Jersey's redesignation request and determined that it meets the redesignation criteria set forth in section 107(d)(3)(E) of the CAA. EPA believes that the monitoring data demonstrate that the NNJ and SNJ $PM_{2.5}$ nonattainment areas has attained the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS and will continue to attain the standard. Final approval of this redesignation request would change the designation of the NNJ and SNJ $PM_{2.5}$ nonattainment areas from nonattainment to attainment for the 1997 $PM_{2.5}$ annual and the 2006 $PM_{2.5}$ 24-hour NAAQS. EPA is also proposing to approve the maintenance plan for the NNJ and SNJ $PM_{2.5}$ nonattainment areas as a revision to the New Jersey SIP. EPA is also proposing to approve the 2007 NH_3, VOC, NO_X, direct $PM_{2.5}$ and SO_2 emissions inventories as meeting the comprehensive emissions inventory requirements of section 172(c)(3) of the CAA. Additionally, EPA is proposing to approve the 2009 and 2025 motor vehicle emissions budgets for $PM_{2.5}$ and NO_X. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

X. Statutory and Executive Order Reviews

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

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

Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Air pollution control.

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

Dated: June 12, 2013.

Judith A. Enck,

Regional Administrator, Region 2.

[FR Doc. 2013–15147 Filed 6–26–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[EPA–R06–OW–2011–0712; FRL–9826–5]

Ocean Dumping; Sabine-Neches Waterway (SNWW) Ocean Dredged Material Disposal Site Designation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to designate four new Ocean Dredged Material Disposal Site(s) (ODMDS) located offshore of Texas for the disposal of dredged material from the Sabine-Neches Waterway (SNWW), pursuant to the Marine Protection, Research and Sanctuaries Act, as amended (MPRSA). The new sites are needed for the disposal of additional dredged material associated with the SNWW Channel Improvement Project, which includes an extension of the Entrance Channel into the Gulf of Mexico. Final action by EPA on this proposal would authorize the disposal of the additional dredged materials at the additional ocean disposal sites.

DATES: Comments on this proposed rule must be received on or before August 12, 2013.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OW–2011–0712, by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov;* follow the online instruction for submitting comments.
- *Email:* Dr. Jessica Franks at *franks.jessica@epa.gov.*
- *Fax:* Dr. Jessica Franks, Marine and Coastal Section (6WQ–EC) at fax number 214–665–6689.
- *Mail:* Dr. Jessica Franks, Marine and Coastal Section (6WQ–EC), Environmental Protection Agency, Mailcode: (6WQ–EC), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

Instructions: Direct your comments to Docket No. EPA–R06–OW–2011–0712. 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 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, 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 whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Marine and Coastal Section (6WQ–EC), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

FOR FURTHER INFORMATION CONTACT: Jessica Franks, Ph.D., Marine and Coastal Section (6WQ–EC), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–8335, fax number (214) 665–6689; email address *franks.jessica@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

8. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use Compliance With Administrative Procedure Act
9. National Technology Transfer Advancement Act
10. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low Income Populations

List of subjects in 40 CFR Part 228

Part 228—[Amended]

The supporting document for these site designations is the Final Environmental Impact Statement (EIS) for the Sabine-Neches Waterway Channel Improvement Project: Southeast Texas and Southwest Louisiana (SNWW CIP) dated March 2011 prepared by the U.S. Army Corps of Engineers (also Corps or USACE). Appendix B of Volume III contains the Ocean Dredged Material Disposal Sites Final Environmental Impact Statement. Comments will only be considered on the proposed site designations. The U.S. Army Corps of Engineers Final EIS for the SNWW CIP was published in the **Federal Register** (FR) March 4, 2011 (76 FR 12108). This document is available for public inspection at the following locations:

1. Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733

2. Federal e-Rulemaking Portal: *http://www.regulations.gov*; follow the online instruction for submitting comments.

A. Potentially Affected Entities

Persons potentially affected by this final action include those who seek or might seek permits or approval by EPA to dispose of dredged material into ocean waters pursuant to the Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. 1401 *et seq.* The EPA's action is relevant to persons, including organizations and government bodies, seeking to dispose of dredged material in ocean waters offshore of Texas for the disposal of dredged material from the Sabine-Neches Waterway. Currently, the US Army Corps of Engineers will be most impacted by this final action. Potentially affected categories and persons include:

Category	Examples of potentially regulated persons
Federal government	U.S. Army Corps of Engineers Civil Works projects, and other Federal agencies.
Industry and general public	Port authorities, marinas and harbors, shipyards and marine repair facilities, berth owners.
State, local and tribal governments	Governments owning and/or responsible for ports, harbors, and/or berths, Government agencies requiring disposal of dredged material associated with public works projects.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding persons likely to be affected by this action. For any questions regarding the applicability of this action to a particular person, please refer to the contact person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. Background

Ocean disposal of dredged materials is regulated under Title I of the Marine Protection, Research and Sanctuaries Act, 33 U.S.C. 1401 *et seq.* (MPRSA). The EPA and the USACE share responsibility for the management of ocean disposal of dredged material. Under Section 102 of MPRSA, EPA is responsible for designating an acceptable location for the ocean dredged material disposal sites (ODMDS). With concurrence from EPA, the USACE issues permits under MPRSA Section 103 for ocean disposal of dredged material deemed suitable according to EPA criteria in MPRSA Section 102 and EPA regulations in 40 CFR part 227. In lieu of the permit procedure for a federal project involving dredged material, the USACE may issue and abide by regulations using the same criteria, other factors to be evaluated, same procedures and same requirements that apply to the issuance of permits.

Pursuant to its voluntary NEPA policy, published on October 29, 1998 (63 FR 58045), EPA typically relies on the EIS process to enhance public participation on the proposed designation of an ODMDS. A site designation EIS evaluates alternative sites and examines the potential environmental impacts associated with disposal of dredged material at various locations. Such an EIS first demonstrates the need for the ODMDS designation action (40 CFR 6.203(a) and 40 CFR 1502.13) by describing available or potential aquatic and non-aquatic (*i.e.*, land-based) alternatives and the consequences of not designating a site—the No Action Alternative. Once the need for an ocean disposal site is established, potential sites are screened for feasibility through a Zone of Siting Feasibility (ZSF) process. Potential alternative sites are then evaluated using EPA's ocean disposal criteria at 40 CFR part 228 and compared in the EIS. Of the sites that satisfy these criteria, the site that best complies is selected as the preferred alternative for designation through a rulemaking proposal published in the **Federal Register**, as here.

Formal designation of an ODMDS in the **Federal Register** and codification in the Code of Federal Regulations does not constitute approval of dredged material for ocean disposal. Site designation merely identifies a suitable ocean location in the event that dredged material is later approved for ocean disposal. Designation of an ODMDS provides an ocean disposal alternative for consideration in the review of each proposed dredging project. Before any ocean disposal may take place, the dredging project proponent must demonstrate a need for ocean disposal, including consideration of alternatives. Alternatives to ocean disposal, including the option for beneficial re-use of dredged material, are evaluated for each dredging project that may result in the ocean disposal of dredged materials from such project. Ocean disposal of dredged material is only allowed after both EPA and USACE determine that the proposed activity is environmentally acceptable under criteria codified in 40 CFR part 227 and 33 CFR part 336, respectively. In addition, ongoing management of these ODMDS would be subject to Site Management and Monitoring Plan(s) (SMMP) required by MPRSA section 102(c)(3)(F) and (c)(4), which are discussed more fully below.

Decisions to allow ocean disposal are made on a case-by-case basis through the MPRSA Section 103 permitting process, resulting in a USACE permit or its equivalent process for USACE's Civil Works projects. Material proposed for disposal at a designated ODMDS must conform to EPA's permitting criteria for acceptable quality (40 CFR parts 225 and 227), as determined from physical, chemical, and bioassay/bioaccumulation tests prescribed by national sediment testing protocols (EPA and USACE 1991). Only clean non-toxic dredged material is acceptable for ocean disposal. The newly designated sites will be subject to ongoing monitoring and management to ensure continued protection of the marine environment.

Evaluation of the proposed ODMDS under EPA's general and specific criteria is described in the March 2011 "Final Environmental Impact Statement for Sabine-Neches Waterway Channel Improvement Project Southeast Texas and Southwest Louisiana, Appendix B." As identified in that appendix, the

environmentally preferred sites that EPA now proposes to designate are SNWW–A, which is located 21 miles from shore, SNWW–B, which is located 24 miles from shore, SNWW–C, which is located 27 miles from shore, and SNWW–D, which is located 30 miles from shore. Each of the ODMDS occupies an area of 5.3 square statute miles, with depths ranging from 44 to 46 feet. The bottom topography is flat. The proposed action, once final, would provide adequate, environmentally-acceptable ocean disposal site capacity for suitable dredged material generated from new work (construction) and future maintenance dredging along the SNWW Entrance Channel 13.2 mile extension by formally designating the SNWW A–D sites as acceptable ocean disposal locations for dredged material meeting applicable requirements.

C. Disposal Volume Limit

The action would formally designate the SNWW A–D for a one-time placement of approximately 18,737,000 cubic yards (cy) of new work (construction) material plus approximately 37,725,000 cubic yards of maintenance material over a 50-year period. The need for ongoing ocean disposal capacity would be based on modeling in the USACE SNWW CIP Engineering Appendix.

D. Site Management and Monitoring Plan

Continuing use of the sites requires verification that significant impacts do not occur outside of the disposal site boundaries through implementation of the SMMP developed as part of the Final EIS developed for the Sabine-Neches Waterway Project. The main purpose of the SMMP is to provide a structured framework to ensure that dredged material disposal activities will not unreasonably degrade or endanger human health, welfare, the marine environment, or economic potentialities (Section 103(a) of the MPRSA). Two main objectives for management of SNWW A–D are: (1) To ensure that only dredged material that satisfies the criteria set forth in 40 CFR part 227 subparts B, C, D, E, and G and part 228.4(e) and is suitable for unrestricted placement at the ODMDS is, in fact, disposed at the sites, and; (2) to avoid excessive mounding, either within the site boundaries or in areas adjacent to the sites, as a direct result of placement operations.

The EPA and USACE Galveston District personnel would achieve these SMMP objectives by jointly administering the following activities in accordance with MPRSA section 102(c)(3): (1) A baseline assessment of conditions at the sites; (2) a program for monitoring the sites; (3) special management conditions or practices to be implemented at the sites that are necessary for protection of the environment; (4) consideration of the quantity of dredged material to be discharged at the sites, and the presence, nature, and bioavailability of the contaminants in the material; (5) consideration of the anticipated use of the sites over the long term, including the anticipated closure date for the sites, if applicable, and any need for management of the sites after the closure; and (6) a schedule for review and revision of the SMMP.

The SMMP prepared for the sites requires periodic physical monitoring to confirm that disposal material is deposited within the seafloor disposal boundary, as well as bathymetric surveys to confirm that there is no excessive mounding or short-term transport of material beyond the limits of the ODMDS. Physical and chemical sediment and biological monitoring requirements are described in the SMMP and are required to be conducted based on the Evaluation of Dredged Material Proposed for Ocean Disposal Testing Manual, EPA 503/8–91/001 and the Joint EPA–USACE Regional Implementation Agreement (RIA) procedures. Results will be used to confirm that dredged material actually disposed at the site satisfies the criteria set forth in 40 CFR part 227 subparts B, C, D, E, and G and part 228.4(e) and is suitable for unrestricted ocean disposal. Other activities implemented through the SMMP to achieve these objectives include: (1) Regulating quantities and types of material to be disposed, including the time, rates, and methods of disposal; and (2) recommending changes to site use requirements, including disposal amounts or timing, based on periodic evaluation of site monitoring results.

E. Ocean Dumping Site Designation Criteria

In proposing to designate these Sites, the EPA assessed the proposed Sites according to the criteria of the MPRSA, with particular emphasis on the general and specific regulatory criteria of 40 CFR 228.5 and 228.6(a), to determine whether the proposed site designations satisfy those criteria.

General Selection Criteria

1. The dumping of materials into the ocean will be permitted only at sites or in areas selected to minimize the interference of disposal activities with other activities in the marine environment, particularly avoiding areas of existing fisheries or shellfisheries, and regions of heavy commercial or recreational navigation.

The EPA selected SNWW A–D, including appropriate buffer zones, to avoid sport and commercial fishing activities, as well as other areas of biological sensitivity. The preferred ODMDS are outside the channel, including the navigation channel buffer zone, and safety fairways, and avoid known navigational obstructions, although they do infringe on two Fairway Anchorage areas.

2. Locations and boundaries of disposal sites will be so chosen that temporary perturbations in water quality or other environmental conditions during initial mixing caused by disposal operations anywhere within the site can be expected to be reduced to normal ambient seawater levels or to undetectable contaminant concentrations or effects before reaching any beach, shoreline, marine sanctuary, or known geographically limited fishery or shellfishery.

The proposed sizes for the buffer zones and for the SNWW A–D sites are based on sediment transport modeling and the physical oceanographic characterization of the Sabine Pass area. Modeling and characterization, combined with the information on the expected quality of the material to be dredged, ensures that perturbations caused by placement are reduced to ambient conditions at the boundaries of the site. Reports of the modeling and characterization are included in the administrative record for this action.

3. If at any time during or after disposal site evaluation studies, it is determined that existing disposal sites presently approved on an interim basis for ocean dumping do not meet the criteria for site selection set forth in Sections 228.5 through 228.6, the use of such sites will be terminated as soon as suitable alternate disposal sites can be designated.

This criterion would not apply to the proposed site designations because they are not existing sites that had previously been approved on an interim basis.

4. The sizes of the ocean disposal sites will be limited in order to localize for identification and control any immediate adverse impacts and permit the implementation of effective monitoring and surveillance programs to prevent adverse long-range impacts. The size, configuration, and location of any disposal site will be determined as a part of the disposal site evaluation or designation study.

The sizes of the proposed sites are as small as possible to reasonably meet the

criteria stated in 40 CFR 228.5 and 40 CFR 228.6(a). The size for each proposed ODMDS is 5.32 square statute miles (4.02 square nautical miles). The SMMPs have been designed to provide adequate surveillance to prevent adverse long-range impacts.

5. The EPA will, wherever feasible, designate ocean dumping sites beyond the edge of the continental shelf and other such sites that have been historically used.

Cost, safety, and time factors plus difficulties with monitoring and surveillance preclude the designation of any ODMDS beyond the edge of the Continental Shelf off Sabine Pass (and the Gulf of Mexico generally). Additionally, uncertainty about the resilience of the deep-ocean benthic community indicates that an off-shelf disposal site could threaten severe adverse impacts to that off-shelf benthic community. The EPA did not identify an environmental advantage to an off-shelf site designation, whereas possible adverse impacts to the human environment could be more easily monitored at a nearshore site. The existing ODMDS that have been used historically, while large enough to accommodate future maintenance material, are cost prohibitive with regard to disposal of dredged material from the channel extension. Without designation of the four new ODMDS, this material would need to be transported to the existing maintenance ODMDS. The end of the existing channel is roughly 13 miles from the end of the proposed extension, resulting in an increased travel distance of 26 miles for each load of dredged material from the extension work. Construction costs are expected to double under this scenario, making it impossible to economically justify the SNWW CIP.

Specific Selection Criteria

1. Geographical position, depth of water, bottom topography, and distance from the coast.

The proposed sites are bounded by the following coordinates (Location North American Datum from 1983):

A	ODMDS	29°24′47″ N, 93°43′29″ W; 29°24′47″ N, 93°41′08″ W 29°22′48″ N, 93°41′09″ W; 29°22′49″ N, 93°43′29″ W
B	ODMDS	29°21′59″ N, 93°43′29″ W; 29°21′59″ N, 93°41′08″ W 29°20′00″ N, 93°41′09″ W; 29°20′00″ N, 93°43′29″ W
C	ODMDS	29°19′11″ N, 93°43′29″ W; 29°19′11″ N, 93°41′09″ W 29°17′12″ N, 93°41′09″ W; 29°17′12″ N, 93°43′29″ W
D	ODMDS	29°16′22″ N, 93°43′29″ W; 29°16′22″ N, 93°41′10″ W 29°14′24″ N, 93°44′10″ W; 29°14′24″ N, 93°43′29″ W

The water depth at the proposed SNWW A–D sites ranges from 44 to 46 feet and the bottom topography is flat. SNWW–A would be located 21 miles from shore, SNWW–B would be located 24 miles from shore, SNWW–C would be located 27 miles from shore and SNWW–D would be located 30 miles from shore.

2. Location in relation to breeding, spawning, nursery, feeding, or passage areas of living resources in adult or juvenile phases.

Due to the marine open water locale of these sites, the presence of aerial, pelagic, or benthic living resources is likely within the area of the proposed sites. The location of the proposed ODMDS can be described as being between the principal spawning areas and the estuarine nursery areas. The water column and benthic effects associated with ocean disposal of dredged material at the proposed ODMDS would not adversely affect the passage of organisms to and from the spawning-nursery areas through the waters above the disposal sites. Localized and intermittent dredged material disposal operations are unlikely to adversely affect migration, feeding, or nesting of marine mammals and sea turtles.

3. Location in relation to beaches and other amenity areas.

The preferred sites are over 21 miles from any beach and Sabine Bank is at least 1.7 miles from the nearest of the proposed ODMDS. According to the dredged material transport model (available in the administrative record), the maximum distance for the mounded dredged material to reach ambient depth was 1,081 feet. Doubling this distance would provide a buffer of 0.4 mile, only a fraction of the 1.7 miles to Sabine Bank.

4. Types and quantities of wastes proposed to be disposed of, and proposed methods of release, including methods of packaging the waste, if any.

Only suitable dredged material from the SNWW Entrance Channel 13.2 mile extension may be disposed at the sites. Dredged material proposed for ocean disposal is subject to strict testing requirements established by the EPA and USACE, and only clean (non-toxic) dredged materials from the SNWW Entrance Channel 13.2 mile extension would be allowed to be disposed of at the SNWW A–D sites. Approximately 18.7 mcy of new work material will be dredged during the construction of 13.2-mile extension of the Entrance Channel. Maintenance material per dredging cycle is estimated at three mcy for a total of 37.7 mcy over a period of 50 years. Dredged material is expected to be released from hopper dredges.

5. Feasibility of surveillance and monitoring.

The proposed sites are amenable to surveillance and monitoring. The SMMP prepared for the sites consists of (1) A method for recording the location of each discharge; (2) bathymetric surveys; and, (3) grain-size analysis, sediment chemistry characterization, and benthic infaunal analysis at selected stations.

6. Dispersal, horizontal transport, and vertical mixing characteristics of the area, including prevailing current direction and velocity, if any.

These three physical oceanographic parameters were used by the U.S. Army Corps of Engineers to develop the necessary buffer zones for the exclusion analysis and to determine the adequacy of size of the proposed sites. Predominant long shore currents, and thus predominant long shore transport, are to the west. Long-term mounding has not historically occurred in the existing nearby ODMDS. Therefore, steady longshore transport and occasional storms, including hurricanes, are expected to remove the disposed material from the sites through dispersal, horizontal transport, and vertical mixing.

7. Existence and effects of current and previous discharges and dumping in the area (including cumulative effects).

The Final Environmental Impact Statement discusses the results of chemical and bioassay testing of samples collected to support the proposed Waterway Extension and surrounds, and concluded that there were no indications of water or sediment quality problems in the ZSF, including the proposed disposal sites. Testing of dredged material collected and tested from past maintenance dredging indicates that the material dredged from the channel was acceptable for ocean disposal according

to the evaluation criteria published at 40 CFR part 227. Based on current direction and modeling of the new work and maintenance material, the proposed disposal sites would be situated to prevent discharged material from reentering the channel and to ensure that any mounding poses no obstruction to navigation. No cumulative mounding has been detected at the existing ODMDS and there is no reason to expect any at the proposed ODMDS.

8. Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance, and other legitimate uses of the ocean.

The interference considerations that are pertinent to the present situation are shipping, mineral extraction, commercial and recreational fishing, and recreational areas. The preferred sites would not interfere with these or other legitimate uses of the ocean because the exclusion processes used to identify the proposed sites was designed to prevent the selection of sites that would cause any such interference. Ocean disposal of dredged material in the past has not interfered with other uses.

9. Existing water quality and ecology of the site as determined by available data or by trend assessment or baseline surveys.

The FEIS to support the proposed Waterway Extension project cited a baseline study, which used sediment samples from the area of the proposed Extension and the ZSF. No adverse water or sediment quality concerns were indicated. Benthos of the area was sampled and characterized, is dominated by polychaetes (57.7%) and included abundant populations of malacostracans (18.3%) and bivalves (7.7%). Density ranged from 4,055 organisms/square foot at Station 3 (north of ODMDS A) up to 30,265 organisms/square foot at Station 26 (center of ODMDS B). Areas of moderately high sand content (68 to 91%) supported the highest densities, located near ODMDS B and ODMDS C, near the center of the ZSF. In general, the water and sediment quality is good throughout the ZSF and in the existing (historically used) ODMDS. There have been no long-term adverse impacts on water and sediment quality or benthos at the existing ODMDS, and none are expected with use of the proposed sites.

10. Potentiality for the development or recruitment of nuisance species in the disposal site.

With disturbances to any benthic community, opportunistic species would initially recolonize the area. At this location, however, these species would not be nuisance species, *i.e.*, they would not interfere with other legitimate uses of the ocean, that they would not be human pathogens, and would not be non-indigenous species. The placement of dredged material in the past has not attracted nor promoted development or recruitment of nuisance species, and the placement of the dredged material from new work and future maintenance dredged material should not attract or promote the development or recruitment of nuisance species.

11. Existence at or in close proximity to the site of any significant natural or cultural features of historical importance.

Historic records generated by the former Minerals Management Service (MMS) indicate that no historic shipwrecks are mapped within the limits of the proposed ODMDS, but remote-sensing surveys have not been conducted. Ocean disposal of dredged material is not expected to adversely affect any unrecorded wrecks given the depth of water through which the material would settle and the expected depth of burial at the time of disposal, particularly given the dispersive nature of the seabed environment in this portion of the Gulf. The distribution, depth, and dispersion of dredged material within these ODMDS have been evaluated by numerical modeling (PBS&J, 2006). Hopper dredges would drop dredged material onto the proposed ODMDS, forming mound fields with individual mounds totaling no more than five feet in height. The effects of the deposition of material on any undiscovered resource would be cushioned by settling through water depths ranging from 30 to 45 feet. Previous monitoring of existing placement areas and studies of bottom ocean currents has shown that the material would disperse between channel maintenance cycles and not accumulate. The proposed ODMDS would be located in Federal waters (*i.e.*, outside of adjacent State jurisdiction).

F. Regulatory Requirements

1. National Environmental Policy Act (NEPA)

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), federal agencies are generally required to prepare an environmental impact statement (EIS) on major federal actions significantly affecting the quality of the human environment. Under the doctrine of functional equivalency, EPA designations of ODMDS under MPRSA are not subject to NEPA requirements. The EPA believes the NEPA process enhances public participation on such designations and the potential effects of these proposed designations were fully analyzed in an EIS on the Sabine-Neches Waterway Channel Improvement Project: Southeast Texas and Southwest Louisiana (SNWW CIP). The Corps of Engineers was the lead agency on that EIS and EPA a cooperating agency.

Notice of the draft EIS was published in the **Federal Register** on December 24, 2009, and the document was available for review and comment through March 10, 2010. In addition, public meetings on the EIS were held in Beaumont, Texas and Lake Charles, Louisiana. Comments included concerns on pipeline relocation, marsh ecology, beneficial use of dredged material, and increased danger from storms. Few comments were received on designation of the ODMDS. Detailed responses to comments were published in Appendix A of the final EIS, notice of which was published in the **Federal Register** on March 4, 2012. The EPA has relied on information from the EIS and its technical appendices in its consideration and application of ocean dumping criteria to the four ODMDS it proposes to designate today.

2. Endangered Species Act Consultation

During development of the SNWW CIP project EIS referenced above, USACE and EPA consulted with the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) pursuant to the provisions of the Endangered Species Act (ESA), regarding the potential for designation and use of the ocean disposal sites to jeopardize the continued existence of any Federally-listed species. The consultation process is documented in that EIS.

Of the Threatened or Endangered Species noted in the biological assessment for the SNWW CIP, only sea turtles and whales are found as far offshore as the proposed ODMDS. The NMFS issued a biological opinion on August 13, 2007, that the proposed action (including proposed site designations) is not likely to jeopardize the continued existence of any Federally-listed species.

3. Magnuson-Stevens Fishery Conservation and Management Act of 1996

The designation of the proposed ODMDS will not adversely affect essential fish habitat. By letter dated March 8, 2010, the National Marine Fisheries Service concurred with the USACE findings that beneficial features

associated with the project would offset any adverse impacts of the Waterway Expansion project.

4. Coastal Zone Management Act

Pursuant to section 307(c)(1) of the Coastal Zone Management Act, federal activities that affect a state's coastal zone must be consistent to the maximum extent practicable with the enforceable policies of the state's approved Coastal Zone Management (CZM) program. To implement that requirement, federal agencies prepare coastal consistency determinations and submit them to the appropriate state agencies, which may concur in or object to a consistency determination.

In connection with its preparation of the EIS on the Sabine-Neches Waterway Channel Improvement Project, the Corps prepared a coastal consistency determination on its proposed navigation projects and the ODMDS designation, which it submitted to the Louisiana Department of Natural Resources (LDNR) and the Texas General Land Office (TGLO), the agencies implementing approved coastal zone management plans for their respective states. On March 30, 2010, TGLO concurred in the Corps consistency determination. By letter of March 31, 2010, LDNR concurred on condition that the Corps submit a supplemental consistency determination to LDNR after the project planning and design process, resulting in a more detailed description of project features. LDNR's letter also generally opposed EPA's ODMDS designation, claiming it would provide the Corps an option other than beneficial use for disposal of dredged material.

More detailed plans and descriptions of the proposed navigation projects may be needed for LDNR and the Corps to resolve potential issues on the practicability of beneficial use of dredged materials in Louisiana's coastal zone. Such issues are independent of EPA's proposed ODMDS designations, however, which only make an offshore disposal option available when the Corps deems beneficial use that might otherwise be required by a state CZM program impracticable. EPA supports beneficial use of dredged material, but ODMDS designations do not in any way require that the Corps forego beneficial use in favor of ocean disposal.

Moreover, the closest of any of the four proposed ODMDS is approximately 20 miles off the Texas coast at its nearest point. Predominant longshore currents in the proposed ODMDS locations flow from east to west and dredged material transport modeling shows that any dredged materials discharged to them will not thus enter or otherwise affect Louisiana's coastal zone. Because the proposed ODMDS designations will not affect any land or water use or natural resource of Louisiana's coastal zone, no coastal consistency determination need be prepared for today's proposal.

5. Coastal Barrier Improvement Act of 1990

The disposal of dredged materials related to maintenance and construction is an exception to Federal expenditure restrictions related to Coastal Barrier Resources Act of 1982; therefore, project activities related to disposal are exempt from the prohibitions set forth in this act.

G. Administrative Review

This rulemaking proposes the designation of ocean dredged material disposal sites pursuant to Section 102 of the MPRSA. This proposed action complies with applicable executive orders and statutory provisions as follows:

1. Executive Order 12866

Under Executive order 12866 (58 FR 51735, October 4, 1993) EPA must determine whether the regulatory action is "significant", and therefore subject to office of Management and Budget (OMB) review and other requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to lead to a rule that may:

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

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

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

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

This Proposed Rule should have minimal impact on State, local or Tribal governments or communities. Therefore, EPA has determined that this Proposed Rule is not a "significant regulatory action" under the terms of Executive Order 12866.

2. Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, is intended to minimize the reporting and recordkeeping burden on the regulated community, as well as to minimize the cost of Federal information collection and dissemination. In general, the Act requires that information requests and record-keeping requirements affecting ten or more non-Federal respondents be approved by OMB. The EPA anticipates that few, if any, non-federal entities will use the sites as none have in the past.

3. Regulatory Flexibility Act, as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996

The Regulatory Flexibility Act (RFA) provides that whenever an agency promulgates a final rule under 5 U.S.C. 553, the agency must prepare a regulatory flexibility analysis unless the head of the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities (5 U.S.C. 604 and 605). The site designation and management actions would only have the effect of setting maximum annual disposal volume and providing a continuing disposal option for dredged material. Consequently, EPA's action will not impose any additional economic burden on small entities. For this reason, the Regional Administrator certifies, pursuant to section 605(b) of the RFA, that the Proposed Rule will not have a significant economic impact on a substantial number of small entities.

4. Unfunded Mandates

Title II of the Unfunded Mandates Reform Act (UMRA) of 1995 (Pub. L. 104–4) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. This Proposed Rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local or Tribal governments or the private sector that may result in estimated costs of $100 million or more in any year. It imposes no new enforceable duty on any State, local or Tribal governments or the private sector nor does it contain any regulatory requirements that might significantly or uniquely affect small government entities. Thus, the requirements of section 203 of the UMRA do not apply to this Proposed Rule.

5. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure meaningful and timely input by State and local officials in the development of

regulatory *policies that have federalism implications. "Policies that have federalism implications"* are defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This Proposed Rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132.

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

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications." This Proposed Rule does not have Tribal implications, as defined in Executive Order 13175.

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

This Executive Order (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by EPA. This Proposed Rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, and because EPA does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

8. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use Compliance With Administrative Procedure Act

This proposed rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866. The Proposed Rule would only have the effect of setting maximum annual disposal volumes and providing a continuing disposal option for dredged material. Thus, EPA concluded that this proposed rule is not likely to have any adverse energy effects.

9. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. This proposed rule does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

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

Executive Order 12898 (59 FR 7629) directs Federal agencies to determine whether the proposed rule would have a disproportionate adverse impact on minority or low-income population groups within the project area. The proposed rule would not significantly affect any low-income or minority population.

List of Subjects in 40 CFR Part 228

Environmental protection, Water pollution control.

Dated: June 12, 2013.

Ron Curry,

Regional Administrator, Region 6.

In consideration of the foregoing, EPA is proposing to amend part 228, chapter I of title 40 of the Code of Federal Regulations as follows:

PART 228—CRITERIA FOR THE MANAGEMENT OF DISPOSAL SITES FOR OCEAN DUMPING

■ 1. The authority citation for part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

■ 2. Section 228.15 is amended by adding paragraphs (j) (23 through 26) to read as follows:

§ 228.15 Dumping sites designated on a final basis.

* * * * *

(j) * * *

(23) Sabine-Neches, TX Dredged Material Site A.

(i) *Location:* 29°24′47″ N., 93°43′29″ W.; 29°24′47″ N., 93°41′08″ W.; 29°22′48″ N., 93°41′09″ W.; 29°22′49″ N., 93°43′29″ W.; thence to point of beginning.

(ii) *Size:* approximately 5.3 square miles.

(iii) *Depth:* Ranges from 44 to 46 feet.

(iv) *Primary Use:* Dredged material.

(v) *Period of Use:* Continuing use.

(vi) *Restrictions:* Disposal shall be limited to dredged material from the Sabine-Neches 13.2 mile Extension Channel that complies with EPA's Ocean Dumping Regulations. Dredged material that does not meet the criteria set forth in 40 CFR part 227 shall not be placed at the site. Disposal operations shall be conducted in accordance with requirements specified in a Site Management and Monitoring Plan developed by EPA and USACE, to be reviewed periodically, at least every 10 years.

(24) Sabine-Neches, TX Dredged Material Site B.

(i) *Location:* 29°21′59″ N., 93°43′29″ W.; 29°21′59″ N., 93°41′08″ W.; 29°20′00″ N., 93°41′09″ W.; 29°20′00″ N., 93°43′29″ W.; thence to point of beginning.

(ii) *Size:* approximately 5.3 square miles.

(iii) *Depth:* Ranges from 44 to 46 feet.

(iv) *Primary Use:* Dredged material.

(v) *Period of Use:* Continuing use.

(vi) *Restrictions:* Disposal shall be limited to dredged material from the Sabine-Neches 13.2 mile Extension Channel that complies with EPA's Ocean Dumping Regulations. Dredged material that does not meet the criteria set forth in 40 CFR part 227 shall not be placed at the site. Disposal operations shall be conducted in accordance with requirements specified in a Site Management and Monitoring Plan developed by EPA and USACE, to be reviewed periodically, at least every 10 years.

(25) Sabine-Neches, TX Dredged Material Site C.

(i) *Location:* 29°19′11″ N., 93°43′29″ W.; 29°19′11″ N, 93°41′09″ W.; 29°17′12″ N., 93°41′09″ W.; 29°17′12″ N., 93°43′29″ W.; thence to point of beginning.

(ii) *Size:* approximately 5.3 square miles.

(iii) *Depth:* Ranges from 44 to 46 feet.

(iv) *Primary Use:* Dredged material.

(v) *Period of Use:* Continuing use.

(vi) *Restrictions:* Disposal shall be limited to dredged material from the Sabine-Neches 13.2 mile Extension Channel that complies with EPA's Ocean Dumping Regulations. Dredged

material that does not meet the criteria set forth in 40 CFR part 227 shall not be placed at the site. Disposal operations shall be conducted in accordance with requirements specified in a Site Management and Monitoring Plan developed by EPA and USACE, to be reviewed periodically, at least every 10 years.

(26) Sabine-Neches, TX Dredged Material Site D.

(i) *Location:* 29°16′22″ N., 93°43′29″ W.; 29°16′22″ N., 93°41′10″ W.; 29°14′24″ N., 93°44′10″ W.; 29°14′24″ N., 93°43′29″ W.; thence to point of beginning.

(ii) *Size:* approximately 5.3 square miles.

(iii) *Depth:* Ranges from 44 to 46 feet.

(iv) *Primary Use:* Dredged material.

(v) *Period of Use:* Continuing use.

(vi) *Restrictions:* Disposal shall be limited to dredged material from the Sabine-Neches 13.2 mile Extension Channel that complies with EPA's Ocean Dumping Regulations. Dredged material that does not meet the criteria set forth in 40 CFR part 227 shall not be placed at the site. Disposal operations shall be conducted in accordance with requirements specified in a Site Management and Monitoring Plan developed by EPA and USACE, to be reviewed periodically, at least every 10 years.

* * * * *

[FR Doc. 2013–14911 Filed 6–26–13; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 412, 482, 485, and 489

[CMS–1599–CN]

RIN 0938–AR53

Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long Term Care Hospital Prospective Payment System and Proposed Fiscal Year 2014 Rates; Quality Reporting Requirements for Specific Providers; Hospital Conditions of Participation; Corrections

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

ACTION: Proposed rule; correction.

SUMMARY: This document corrects technical and typographical errors in the proposed rule that appeared in the May 10, 2013 **Federal Register** titled "Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long Term Care Hospital Prospective Payment System and Proposed Fiscal Year 2014 Rates; Quality Reporting Requirements for Specific Providers; Hospital Conditions of Participation."

FOR FURTHER INFORMATION CONTACT: Tzvi Hefter (410) 786–4487, for corrections regarding MS–DRG classifications and new technology add-on payments.

Eva Fung (410) 786–7539, for corrections regarding the Hospital Readmission Reduction Program Hospital and Hospital Inpatient Quality Reporting Program.

William Lehrman (410) 786–1037, for corrections regarding the Hospital Consumer Assessment of Healthcare Providers and Systems (HCAHPS) requirements.

Charles Padgett (410) 786–2811 for corrections regarding the Long-Term Care Quality Reporting Program.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2013–10234 of May 10, 2013 (78 FR 27486), there were a number of technical errors that are identified and corrected in the Correction of Errors section of this correcting document.

II. Summary of Errors

A. Errors in the Preamble

On page 27514, in our discussion of the proposed changes to specific Medicare severity diagnosis-related group (MS–DRG) classifications, we made a typographical error in a section heading.

On page 27545, in our discussion of the fiscal year (FY) 2014 applications for new technology add-on payments, we made inadvertent technical and formatting errors in the table regarding differences between the Responsive Neurostimulator (RNS®) System and Deep Brain Stimulator (DBS) and Vagus Nerve Stimulator (VNS) Systems (the table is titled "KEY DIFFERENCES BETWEEN THE RNS SYSTEM AND DBS AND VNS SYSTEMS.")

On pages 27595 and 27596, in our discussion of the FY 2014 proposals regarding the Hospital Readmission Reduction Program, we inadvertently provided the incorrect hyperlink to a readmissions report.

On page 27622, in our discussion of the Hospital-Acquired Condition (HAC) Reduction Program for FY 2015, we made a typographical error in the text of a footnote.

On pages 27625 and 27630, in our discussion of standardized infection ratio (SIR) and healthcare-association infections (HAI), we made several typographical and technical errors in describing the predicted number and how the predicted number of events is calculated.

On page 27634, in our discussion of Hospital Inpatient Quality Reporting Program, we made errors regarding the clinical measures set and stratum.

On page 27699, in our discussion of the Hospital Consumer Assessment of Healthcare Providers and Systems (HCAHPS) requirements, we made an error in the timeframe specified for obtaining and submitting completed surveys.

On page 27700, in our discussion of the Hospital Consumer Assessment of Healthcare Providers and Systems (HCAHPS) requirements, we made a typographical error in referencing the Centers for Disease Control and Prevention's National Healthcare Safety Network (NHSN).

On page 27704, in our discussion of the HAI measures included in the current Hospital IQR validation process, we made errors in referencing the timeframe for updating the list of the common commensals and in the hyperlink for the CLABSI Validation Template.

On page 27710, in our discussion of the PPS-Exempt Cancer Hospital Quality Reporting Program (PCHQR), we made a typographical error in referencing CDC's NHSN.

On page 27714, we inadvertently made technical errors in describing where the HCHAPS survey, methodology, and results can be found.

On pages 27721, 27722, 27723, 27725, 27726, 27729, 27730, 27731, 27752, and 27755, in our discussion regarding the LTCHQR Program, we made typographical and technical errors in a hyperlink and several measure names and NQF measure identification numbers. We also made errors outlining the proposed timeline for submission of the LTCHQR quality data for the application of NQF #0674 and referencing CDC's NHSN.

B. Errors in the Addendum

On page 27810, in our discussion of the effects of the proposed implementation of the HAC Reduction Program, we made inadvertent errors in the total number of hospitals that had submitted complete data.

On page 27819, in our discussion of the effects of the FY 2014 LTCHQR Program, we made several typographical errors.

III. Correction of Errors

In FR Doc. 2013–10234 of May 10, 2013 (78 FR 27486), make the following corrections:

A. Corrections of Errors in the Preamble

1. On page 27514, first column, paragraph 3, heading "a. Endoscopic Placement of a Bronchial Value" is corrected to read "a. Endoscopic Placement of a Bronchial Valve".

2. On page 27545, the top of the page, the table titled "KEY DIFFERENCES BETWEEN THE RNS SYSTEM AND DBS AND VNS SYSTEMS" is corrected as follows:

KEY DIFFERENCES BETWEEN THE RNS® SYSTEM AND DBS AND VNS SYSTEMS

	RNS® system	Deep brain stimulator (DBS)	Vagus nerve stimulator (VNS)
Type of stimulation	Closed loop: responsive	Open loop: scheduled.	
Stimulation time/day	About 5 minutes	Hours—Continuous.	
Stimulation target	Cortical; varies according to seizure focus	Deep brain nuclei	Ascending vagus nerve.
Neurostimulator	Cranially implanted	Subcutaneously (pectorally) implanted.	
Programming changes	According to clinical and electrographic response	According to clinical response.	
Information from device	Device data, detections, stimulations and electrocorticograms.	Device data.	
Physician data review	At time of programming as well as online access to stored data.	At time of programming.	

3. On page 27595,

a. Second column, first partial paragraph, lines 4 through 8, the hyperlink, "*http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Hospital_QualityInits/Measure-Methodology.html.*" is corrected to read "*http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/HospitalQualityInits/Measure-Methodology.html.*".

b. Third column, third full paragraph, lines 10 through 13, the hyperlink, "*http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Hospital_QualityInits/Measure-Methodology.html.*" is corrected to read "*http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/HospitalQualityInits/Measure-Methodology.html.*".

4. On page 27596, first column, first partial paragraph, lines 10 through 14, the parenthetical hyperlink, "(*http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Hospital_QualityInits/Measure-Methodology.html*)." is corrected to read "(*http://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/HospitalQualityInits/Measure-Methodology.html*)."

5. On page 27622, second column, last paragraph (footnote 53), line 8, the parenthetical figure, "(140.9)." is corrected to read "(140.6).".

6. On page 27625,

a. Second column, first full paragraph,

(1) Line 22, the phrase, "based on quarterly reporting." is corrected to read "based on quarterly and annual reporting."

(2) Line 45, the figure, "1.000" is corrected to read "1,000".

b. Third column, first partial paragraph, line 1, the phrase "predicted HAI events to reduce" is corrected to read "predicted HAI events to produce".

7. On page 27630, first column, first full paragraph,

a. Lines 2 and 3, the phrase " the facility have >1 predicted HAI event" is corrected to read "the facility to have a ≥ 1 predicted HAI event".

b. Lines 5 and 6, the phrase, "national HAI rate and the observed number of the specific HAIs." is corrected to read "national HAI rates and denominator counts (that is, number of device days, procedure days, or patient days depending on the HAI).".

8. On page 27634, first column, first partial paragraph,

a. Lines 15 through 17, the phrase "chart-abstracted information for the full 4½ months following the last discharge date in a calendar quarter." is corrected to read, "the chart-abstracted information for the full 4½ months following the end of a calendar quarter.".

b. Lines 18 and 19, the phrase "the first discharge day of any reporting quarter." is corrected to read "the first day of any reporting quarter."

c. Lines 32 and 33, the phrase "denominator, and percentage of total for each Clinical Measure Set and Stratum." is corrected to read "denominator, and calculated SIR for each HAI stratum.".

d. Lines 35 and 36, the phrase, "performance on each measure set/stratum " is corrected to read "performance on each HAI stratum".

e. Lines 41 through 45, the phrase, "view their percentage of total, or measure rate, on each Clinical Measure Set/Strata for use in both the Hospital IQR Program and the HAC Reduction Program." is corrected to read "view their calculated SIR on each HAI stratum for use in both the Hospital IQR Program and the HAC Reduction Program.".

f. Lines 55 through 59, the phrase, "measure rates for chart-abstracted measures as specified, they would have no further opportunity to correct such data or measure rates." is corrected to read "measure SIRs for chart-abstracted measures as specified, they would have no further opportunity to correct such data or measure SIRs.".

9. On page 27699, third column, last paragraph, lines 5 and 6, the phrase, "rolling quarter period." is corrected to read "rolling four quarter period.".

10. On page 27700, in the table, the phrase, "CDC/NHSN" is corrected to read "CDC's NHSN".

11. On page 27704, second column, first partial paragraph,

a. Lines 1 through 3, the phrase "list is frequently updated, but the link containing updates is currently out of date." is corrected to read "list is updated annually.".

b. Lines 8 through 10, the sentence "At present that list may be found at: *http://www.cdc.gov/nhsn/acute-care-*

hospital/clabsi/index.html." is corrected to read "The current list may be found at: *http://www.cdc.gov/nhsn/XLS/master-organism-Com-Commensals-Lists.xlsx.*".

12. On 27710, second column, second full paragraph, lines 5 and 6, the phrase, "two CDC/NHSN-based" is corrected to read "two of the CDC's NHSN-based".

13. On 27714, third column, second full paragraph, lines 10 through 12, the sentence, "The survey, its methodology and the results it produces are available on Hospital Compare." is corrected to read "The survey and its methodology are available on the HCAHPS On-Line Web site located at: *http://www.hcahpsonline.org* and the survey results are available on the Hospital Compare Web site at *http://www.hospitalcompare.hhs.gov.*".

14. On page 27721, lower third of the page, third column, partial paragraph, lines 5 and 6, the hyperlink "*http://www.cdc.gov/flu/about/season/flu-season-2012–2013.htm*" is corrected to read "*http://www.cdc.gov/flu/pastseasons/1213season.htm.*"

15. On page 27723, top of the page, lines 2 and 3, in the table heading that begins "PROPOSED TIMELINE FOR SUBMISSION OF LTCHQR," the phrase "ASSESSED AND APPROPRIATELY GIVE" is corrected to read "ASSESSED AND APPROPRIATELY GIVEN".

16. On page 27725, first column, first full paragraph,

a. Lines 1 and 2 the phrase "CDC/NHSN" is corrected to read "CDC's NHSN.".

b. Lines 5 and 6, the phrase "CDC/NHSN" is corrected to read "CDC's NHSN."

c. Line 27 the phrase "CDC/NHSN" is corrected to read "CDC's NHSN."

17. On page 27726, first column,

a. First partial paragraph, lines 3 and 4, the phrase "CDC/NHSN" is corrected to read "CDC's NHSN."

b. First full paragraph,

(1) Lines 1and 2 the phrase, "CDC/NHSN" is corrected to read "CDC's NHSN".

(2) Lines 6 and 7, the phrase, "CDC/NHSN" is corrected to read "CDC's NHSN".

(3) Line 30, the phrase, "CDC/NHSN" is corrected to read "CDC's NHSN".

18. On page 27729, second column, fourth paragraph, lines 3 and 4, the phrase "Percent of Nursing Home Residents Experiencing" is corrected to read "Percent of Residents Experiencing".

19. On page 27730, lower third of the page, third column, partial paragraph (between the tables), line 3, the phrase "CDC/NHSN" is corrected to read "CDC's NHSN."

20. On page 27731,

a. First column, first paragraph,

(1) Line 28, the term "subseqeuent" is corrected to read "subsequent."

(2) Line 32, the phrase "CDC/NHSN" is corrected to read "CDC's NHSN."

b. Third column,

(1) In the first table titled "TIMELINE FOR DATA COLLECTION OF LTCHQR PROGRAM QUALITY DATA FOR THE FY 2016 PAYMENT DETERMINATION," the listed entries for Column 1 (NQF measure ID) are corrected to read as follows:

NQF measure ID
NQF #0680**
NQF #0431**

(2) In the last table titled "PROPOSED TIMELINE FOR SUBMISSION OF LTCHQR PROGRAM QUALITY DATA FOR THE FY 2016 PAYMENT DETERMINATION AND SUBSEQUENT PAYMENT DETERMINATIONS: NQF #0680 PERCENTAGE OF RESIDENTS OR PATIENTS WHO WERE ASSESSED AND APPROPRIATELY GIVEN THE SEASONAL INFLUENZA VACCINE (SHORT STAY), the table is corrected to read as follows:

PROPOSED TIMELINE FOR SUBMISSION OF LTCHQR PROGRAM QUALITY DATA FOR THE FY 2016 PAYMENT DETERMINATION AND SUBSEQUENT PAYMENT DETERMINATIONS: NQF #0680 PERCENTAGE OF RESIDENTS OR PATIENTS WHO WERE ASSESSED AND APPROPRIATELY GIVEN THE SEASONAL INFLUENZA VACCINE (SHORT STAY)

Data collection timeframe	Submission deadline
Q2 (April–June 2014)	August 15, 2014.
Q3 (July–September 2014).	November 15, 2014.
Q4 (October–December 2014).	February 15, 2015.

21. On page 27733, first column, first table, in the table titled "PROPOSED TIMELINE FOR SUBMISSION OF LTCHQR PROGRAM QUALITY DATA FOR THE FY 2018 PAYMENT DETERMINATION—Continued," first column of the table (NQF measure ID), last line, the entry "NQF #0674" is corrected to read "Application of NQF #0674".

22. On page 27752, first column,

a. First partial paragraph, line 15, the term "subseqeuent" is corrected to read "subsequent".

b. First full paragraph, line 6 and 7, the phrase "CDC/NHSN" is corrected to read "CDC's NHSN".

23. On page 27755, first column,

a. Second full paragraph, line 2, the phrase "NQF #0674 Percent of" is corrected to read "Application of NQF #0674 Percent of".

b. Third full paragraph,

(1) Line 6, the parenthetical phrase "(NQF #0674)" is corrected to read "(Application of NQF #0674)".

(2) Lines 11 and 12, the phrase "the inclusion of the Percent of Residents" is corrected to read "the inclusion of the Application of the Percent of Residents".

B. Corrections of Errors in the Addendum

1. On page 27810, first column, second full paragraph,

a. Line 1, the figure "3,435" is corrected to read "3,445".

b. Line 3, the figure "3,435" is corrected to read "3,445".

2. On page 27819,

a. Second column, third full paragraph, line 27, the term "sunsequent" is corrected to read "subsequent".

b. Third column, first paragraph, lines 3 and 4, the hyperlink "(*http://www.qualityforum.org/projects/patient* safety measures.aspx)" is corrected to read "(*http://www.qualityforum.org/projects/patient_safety_measures.aspx*)".

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: June 21, 2013.

Jennifer M. Cannistra,

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

[FR Doc. 2013–15321 Filed 6–21–13; 4:15 pm]

BILLING CODE 4120–01–P

Notices

Federal Register
Vol. 78, No. 124
Thursday, June 27, 2013

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Farm Service Agency

Information Collection; Application for Payment of Amounts Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent

AGENCY: Commodity Credit Corporation and Farm Service Agency, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Commodity Credit Corporation (CCC) and the Farm Service Agency (FSA) are requesting comments from all interested individuals and organizations on an extension of a currently approved information collection. The CCC and FSA are using the collected information to determine whether representatives or survivors of a producer are entitled to receive payments earned by a producer who dies, disappears, or is declared incompetent before receiving payments or other disbursements.

DATES: We will consider comments that we receive by August 26, 2013.

ADDRESSES: We invite you to submit comments on this notice. In your comments, include date, volume, and page number of this issue of the **Federal Register**. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://regulations.gov*. Follow the online instructions for submitting comments.
- *Mail:* Rick Blackwood, Agricultural Program Specialist, USDA, FSA STOP 0572, 1400 Independence Avenue SW., Washington, DC 20250–0572.

You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Copies of the information collection may be requested by contacting Rick Blackwood at the above addresses.

FOR FURTHER INFORMATION CONTACT: Rick Blackwood, Agricultural Program Specialist, (202) 720–5422, or by email: *rick.blackwood@wdc.usda.gov*.

SUPPLEMENTARY INFORMATION:

Title: Application for Payment of Amounts Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent.

OMB Control Number: 0560–0026.

Expiration Date: December 31, 2013.

Type of Request: Extension.

Abstract: Persons desiring to claim payments earned, but not yet paid to a person who has died, disappeared, or has been declared incompetent must complete a form FSA–325, Application for Payment of Amounts Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent. This information is used by FSA county office employees to document the relationship of heirs, beneficiaries or others who claim payment that was earned, but not yet paid to the person who died, disappeared, or who has been declared incompetent, and to determine the order of precedence for disbursing payments to such persons.

Information is obtained only when a person claims that they are due a payment that was earned, but not paid to a producer that has died, disappeared, or has been declared incompetent, and documentation is needed to determine if any individuals are entitled to receive such payments or disbursements.

Estimated Average Time to Respond: Public reporting burden for this collection of information is estimated to average 1.5 hours (30 minutes) per response. The average travel time, which is included in the total annual burden, is estimated to be 1 hour per respondent.

Type of Respondents: Producers.

Estimated Number of Respondents: 2,000.

Estimated Number of Responses per Respondent: 1.

Estimated Annual Number of Responses: 2,000.

Estimated Total Annual Burden: 3,000.

We are requesting comments on all aspects of this information collection to help us to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of FSA, including whether the information will have practical utility;

(2) Evaluate the accuracy of FSA's estimate of burden including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected;

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice, including name and addresses when provided, will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed on June 18, 2013.

Juan M. Garcia,

Executive Vice President, Commodity Credit Corporation, and Administrator, Farm Service Agency.

[FR Doc. 2013–15334 Filed 6–26–13; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Information Collection: Power of Attorney

AGENCY: Farm Service Agency, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Farm Service Agency (FSA) is seeking comments from all interested individuals and organizations on the extension with a revision of a currently approved information collection associated with the Power of Attorney. This information collection is used to support the FSA, Commodity Credit Corporation (CCC), Natural Resources Conservation Service (NRCS), Federal Crop Insurance Corporation (FCIC) and Risk Management Agency (RMA) in conducting business and accepting signatures on documents from individuals acting on behalf of other individuals or entities.

DATES: We will consider comments that we receive by August 26, 2013.

ADDRESSES: We invite you to submit comments on this notice. In your comments, include date, volume, and page number of this issue of the **Federal Register**. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://regulations.gov*. Follow the online instructions for submitting comments.
- *Mail:* Rick Blackwood, Agricultural Program Specialist, USDA, FSA, Stop 0572, 1400 Independence Avenue SW., Washington, DC 20250–0572.

You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Copies of the information collection may be requested by contacting Rick Blackwood at the above addresses.

FOR FURTHER INFORMATION CONTACT: Rick Blackwood, Agricultural Program Specialist, (202) 720–5422, or by email: *rick.blackwood@wdc.usda.gov*.

SUPPLEMENTARY INFORMATION:

Title: Power of Attorney.

OMB Control Number: 0560–0190.

Expiration Date of Approval: December 31, 2013.

Type of Request: Extension with a revision.

Abstract: Individuals or entities that want to appoint another to act as an attorney-in-fact in connection with certain FSA, CCC, NRCS, FCIC, and RMA programs and related actions must complete a FSA–211, Power of Attorney form. The FSA–211 is the form that is used by a grantor to appoint another to act on the individual's or entity's behalf for certain FSA, CCC, NRCS, FCIC, and RMA programs and related actions, giving the appointee legal authority to enter into certain binding agreements on the grantor's behalf. The FSA–211 also provides FSA, CCC, NRCS, FCIC, and RMA a source to verify an individual's authority to sign and act for another in the event of errors or fraud.

The information collected on the FSA–211 is limited to grantor's name, signature and identification number, the grantee's address, and the applicable FSA, CCC, NRCS, FCIC, and RMA programs. The burden has increased by 58,681 hours due to the 1-hour travel times per respondent included and the actual numbers of respondents in this request.

Estimate of Average Time to respond: 1.25 hours (75 minutes) per response. The average travel time, which is included in the total annual burden, is estimated to be 1 hour per respondent.

Type of Respondents: Individuals or authorized representatives of entities, such as corporations, that want to appoint an attorney-in-fact to act on their behalf.

Estimated Number of Respondents: 51,585.

Estimated Number of Responses per Respondent: 1.

Estimated Number of Responses: 51,585.

Estimated Total Annual Burden on Respondents: 64,256 hours.

We are requesting comments on all aspects of this information collection to help us to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of FSA, including whether the information will have practical utility;

(2) Evaluate the accuracy of FSA's estimate of burden including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected;

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice, including name and addresses when provided, will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed on June 18, 2013.

Juan M. Garcia,

Administrator, Farm Service Agency.

[FR Doc. 2013–15336 Filed 6–26–13; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2011–0033]

Availability of Guidance: Establishments Guidance for the Selection of a Commercial or Private Microbiological Testing Laboratory

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing the availability of final guidance for federally inspected establishments in the selection of commercial and private microbiological testing laboratories. FSIS has posted this policy guidance on its Web page *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/compliance-guides-index*. FSIS encourages establishments that prepare meat, poultry, or processed egg products to consider the criteria in the guidance in selecting commercial or private microbiological testing laboratories and in determining the laboratories' capability to produce accurate and reliable results. Regulated establishments are required to introduce into commerce only meat, poultry, or processed egg products that are safe and not adulterated or misbranded. Establishments that select laboratories that do not apply appropriate testing methods or maintain effective Quality Control or Quality Assurance (QC/QA) practices may not receive reliable or useful test results and thus run the risk of not being aware that the food that they have produced is unsafe.

DATES: The guidance is effective August 26, 2013.

FOR FURTHER INFORMATION CONTACT: Evelyne Mbandi, Deputy Director, Risk, Innovations, and Management Staff, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW., Patriots Plaza 3, Mailstop 3782, Room 163–B, Washington, DC 20250; Phone: (301) 504–0897; Email: *evelyne.mbandi@fsis.usda.gov*.

SUPPLEMENTARY INFORMATION:

Background

In a **Federal Register** notice published March 8, 2012 (77 FR 13999), FSIS made available its "Establishment Guidance for the Selection of a Commercial or Private Microbiological Testing Laboratory" and requested comment on it. As FSIS explained in the 2012 **Federal Register** notice, this guidance document provides establishments that prepare meat, poultry, and processed egg products with criteria for selecting a commercial or private laboratory to analyze their samples. Regulated establishments are ultimately responsible for the testing methods and practices that the laboratory employs on the establishments' behalf.

An FSIS-regulated establishment may perform microbiological testing for various reasons, including, but not limited to: Fulfilling regulatory requirements; performing on-going verification of the establishment's Hazard Analysis and Critical Control Point (HACCP) plan; supporting decisions made in the establishment's hazard analysis; evaluating the effectiveness of the establishment's sanitation program; and complying with purchase specifications or requirements.

In response to the comments it received, FSIS has revised the guidance to clarify that establishments that select laboratories that meet the guidance provided in the International Organization for Standardization (ISO) 17025 accreditation schemes would meet the applicable criteria set out in FSIS's guidance. FSIS also revised the guidance to explain that establishments that have samples analyzed using an accredited laboratory and an FSIS Microbiology Laboratory Guidebook (MLG) method would meet the applicable criteria recommended in the guidance. FSIS also revised the guidance to state that proficiency testing (PT) should be performed on a regular basis. FSIS made other technical changes to the guidance discussed below in the response to comments.

FSIS encourages establishments to use the guidance in selecting commercial or private laboratories and for ensuring that microbiological testing performed on their behalf meets their food safety needs.

Discussion of Comments

FSIS received seven comments on the guidance in response to the 2012 **Federal Register** notice. These comments were from suppliers of laboratory services and products, providers of proficiency testing, commercial laboratories, trade associations, and meat packing and processing establishment representatives.

The following is a discussion of the relevant issues raised in the comments.

Comment: A commenter asked, if an establishment required a commercial laboratory to follow the guidance and provide a written guarantee to the establishment to this effect, would FSIS consider the establishment to be following the guidance? The commenter also asked whether FSIS would instruct IPP to write a noncompliance record (NR) if the laboratory did not follow the guidance. In addition, the commenter asked what scientific criteria a small establishment owner might provide a laboratory to help ensure that the laboratory used acceptable methods and provided reliable results.

Response: Following this guidance is not a requirement for establishments. If an establishment chooses to follow this guidance, FSIS recommends that it do more than provide a copy to the laboratories. FSIS recommends that the establishment ask the laboratory to do more than give the establishment a written guarantee that it is following the guidance. For example, in addition to completing the checklist (Appendix I), the laboratory should provide documentation for the establishment to be able to determine that the laboratory is using validated methods to test its samples, and that the methods are fit for the purpose. The establishment is responsible for performing on-going HACCP verification activities (9 CFR 417.4(a)) and documenting those activities and their frequency (9 CFR 417.5(a)(3)) to support its decisions in its hazard analysis. The establishment should ensure that the laboratory is providing reliable results by understanding their significance and how they apply to its food safety system, e.g., whether the results evidence that the product is adulterated.

Because following the guidance is not required, FSIS will not issue an NR if an establishment has chosen not to follow it or does not ensure that a laboratory that tests product samples on its behalf follows it. However, FSIS will continue to verify that establishments comply with the regulations.

Small establishments can provide a copy of this guidance to laboratories they employ to help ensure that these laboratories use acceptable methods and provide reliable results. In addition, small establishments can request a copy of the completed checklist (Appendix I) from the laboratory.

Comment: Commenters noted that similar guidance is available that addresses how establishments should select a testing laboratory and is used by FSIS, FDA, and many other federal laboratories: *Association of Analytical Communities (AOAC) International Guidelines for Laboratories Performing Microbiological and Chemical Analyses of Food and Pharmaceuticals.* The commenter recommended that all laboratories, regardless of size, or whether they are third-party or on-site, be required to meet the same criteria to provide consistency of test results.

Response: FSIS recognizes that the *AOAC International Guidelines for Laboratories Performing Microbiological and Chemical Analyses of Food and Pharmaceuticals* is useful for laboratory staff and as guidance for laboratories seeking to implement the ISO 17025 standards. FSIS has developed its guidance to assist industry plant managers and support staff in assessing and selecting laboratory services. While FSIS acknowledges that there is some technical overlap between these documents, the FSIS document provides language and content intended for a non-technical industry audience. Regarding the suggestion that all laboratories meet the same criteria regardless of size, FSIS is providing guidance, not proposing to mandate laboratory accreditation.

Comment: A commenter stated that the guidance should state that some accreditation schemes, e.g. ISO, meet the criteria in FSIS's guidelines.

Response: In the final guidance, FSIS has added an explanation that laboratories that meet the guidance provided in the ISO 17025 accreditation schemes would meet the criteria in the guidelines. Similarly, FSIS has explained that establishments that analyze samples using an accredited laboratory and an FSIS Microbiology Laboratory Guidebook (MLG) method would also meet the criteria in the guidance.

Comment: One commenter asked whether FSIS has developed a list of minimally acceptable test protocols.

Response: FSIS has not developed a list of minimally acceptable test protocols. However, FSIS has posted a web-based list of validated methods commonly used by regulated establishments to test for pathogens of interest (*E. coli O157:H7* and *STECs; Listeria monocytogenes* and *Listeria* species; and *Salmonella* and *Campylobacter* species) in meat, poultry, and processed egg products. The list of these methods is available at: *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/New+Technologies.* FSIS will revise the Web-based database of commonly used methods on a quarterly basis. However, establishments or laboratories can use other methods. As stated in Chapter 2, Part D, Method of Selection and Implementation, in this guidance, the method should be capable of detecting the target pathogen and have been validated using a scientifically robust study by a recognized entity, as outlined in the FSIS validation guidance document for test kit manufacturers and laboratories, available at: *http://www.fsis.usda.gov/wps/wcm/connect/966638c7-1931-471f-a79e-4155ce461d65/Validation_Studies_Pathogen_Detection_Methods.pdf?MOD=AJPERES.* Internationally recognized independent organizations include AOAC, AFNOR, MicroVal, and NordVal. Any modifications introduced to a validated method should also be validated using a scientifically robust study. Samples could also be analyzed by a laboratory that is ISO 17025-accredited, using a method in the FSIS MLG. Although ISO accreditation is not required, accreditation provides increased confidence in the accuracy of the test results. Using either an acceptable validated method or any other sample testing method the establishment can support would be acceptable to the Agency. Additional information on the FSIS MLG Methods and ISO

accreditation is available at: *http://www.fsis.usda.gov/wps/portal/fsis/topics/science/laboratories-and-procedures/guidebooks-and-methods/microbiology-laboratory-guidebook/microbiology-laboratory-guidebook ; http://www.fsis.usda.gov/wps/portal/fsis/topics/food-safety-education/get-answers/food-safety-fact-sheets/production-and-inspection/key-facts-iso-accreditation/key-facts-iso-accreditation;* and *http://www.isoiec17025.com/.*

Comment: A commenter stated that the guidance did not state whether proficiency testing (PT) should be required of the laboratory or of the individual analyst or technician and requested clarification regarding necessary PT qualifications for individual analysts of technicians. The commenter also suggested that instructions in the guidance should change the definition of "routine PT" to reflect the reality that PT is regularly administered more than once or twice a year.

Response: FSIS has revised the document to state that PT should be performed on a regular basis (at least 2 to 3 times annually). FSIS explains that PT programs are designed to critically evaluate the accuracy, precision, and efficiency of the laboratory. PT provides evidence of a laboratory's ability to produce credible analytical results with a method, and laboratories may use PT as a means to evaluate individual analysts' initial and ongoing competency to perform a method.

Comment: A commenter stated that the guidance should provide clarification on some of the instructions on how PT should be utilized operationally by a laboratory. Specifically, the commenter stated that FSIS should clarify that worksheets for PT are not provided by the PT program. The commenter also noted that PT organizations do not "certify" laboratories. The commenter suggested that portions of this guidance may benefit from a better explanation of FSIS's compliance process and recommended that the establishment make the completed checklist (Appendix I) available to FSIS personnel as supplemental data. Finally, the commenter stated that, when choosing a laboratory, the establishment should consider whether the result of the laboratory's previous year's PT was acceptable.

Response: FSIS has revised the guidance to incorporate the commenter's suggestion by referring to PT records rather than worksheets and made the other necessary technical changes recommended by the commenter. In addition, FSIS has revised the Quality Assurance Management System section of the guidance document and added questions regarding the verification of laboratory's past year's PT results.

Comment: One commenter stated that the guidance document would almost preclude the use of microbiological testing data generated by private and commercial laboratories because, the commenter thought, the document requires criteria similar to ISO 17025. The commenter added that the guidance document had the same guidance for selection of a laboratory that completes very basic tests as that for a lab that completes complex pathogenic tests. The commenter also noted that the guidance on collection of samples should reflect that food samples in finished packages need not be transferred to a "sterile primary container" as long as the receiving laboratory verifies that the package is intact. Finally, the commenter requested clarification or examples of how methods could be validated in foods representative of those likely to be sampled at the establishment.

Response: This document is only guidance, and it does not set new requirements for laboratories or the regulated industry. The final document explains that pathogen testing laboratories should follow requirements for Biosafety Level II laboratory operation as outlined in *Biosafety in Microbiological and Biomedical Laboratories*. The guidance continues to recognize the critical data provided by on-site laboratories. FSIS also explains that food samples in intact retail packs do not have to be placed in sterile containers but should be placed in a secondary container, such as a sealed plastic bag. This approach is consistent with the Agency's sample collection methods.

The guidance document provides information on lab validation. Representative food matrices are available at the AOAC–RI Performance Tested Web page. The Agency is providing links to the AOAC–RI Performance Tested Methods and AOAC Official Methods of Analysis in the Reference section of the guidance document. Manufacturers of microbiological testing products, including pathogen screening tests, often provide useful information on the validation of their products.

Comment: A commenter stated that wording in the FSIS guidance document was vague with regard to the risk of contamination that could spread from an on-site laboratory to manufacturing areas of an establishment.

Response: FSIS has revised the guidance to recommend that, because of safety concerns and to prevent cross-contamination, a pathogen testing laboratory should be segregated from manufacturing areas, and that access to the laboratory space be limited.

USDA Nondiscrimination Statement

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To file a written complaint of discrimination, write USDA, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Washington, DC 20250–9410 or call (202) 720–5964 (voice and TTY). USDA is an equal opportunity provider and employer.

Additional Public Notification

FSIS will announce this notice online through the FSIS Web page located at *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/federal-register/federal-register-notices.*

FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. In addition, FSIS offers an electronic mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/wps/portal/fsis/programs-and-services/email-subscription-service.* Options range from recalls to export information to regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

Done at Washington, DC, on June 21, 2013.

Alfred V. Almanza,

Administrator.

[FR Doc. 2013–15422 Filed 6–26–13; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCIES: Rural Housing Service (RHS), USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the above-named Agencies to request an extension for a currently approved information collection in support of debt settlement of Community Facilities and Direct Business Program Loans and Grants.

DATES: Comments on this notice must be received by August 26, 2013 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: For inquiries on the Information Collection Package, contact Derek Jones, Community Programs Specialist, Community Programs, RHS, USDA, 1400 Independence Ave. SW., Mail Stop 0787, Washington, DC 20250–0787, Telephone (202) 720–1504, Email *derek.jones@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION: *Title:* 7 CFR part 1956, subpart C—"Debt Settlement-Community and Business Programs."

OMB Number: 0575–0124.

Expiration Date of Approval: September 30, 2013

Type of Request: Extension of a currently approved information collection.

Abstract: The following Community and Direct Business Programs loans and grants are debt settled by this currently approved docket (0575–0124). The Community Facilities loan and grant program is authorized by Section 306 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926) to make loans to public entities, nonprofit corporations, and Indian tribes through the Community Facilities program for the development of essential community facilities primarily serving rural residents.

The Economic Opportunity Act of 1964, Title 3 (Pub. L. 88–452), authorizes Economic Opportunity Cooperative loans to assist incorporated and unincorporated associations to provide low-income rural families essential processing, purchasing, or marketing services, supplies, or facilities.

The Food Security Act of 1985, Section 1323 (Pub. L. 99–198), authorizes loan guarantees and grants to Nonprofit National Corporations to provide technical and financial assistance to for-profit or nonprofit local businesses in rural areas.

The Business and Industry program is authorized by Section 310 B (7 U.S.C. 1932) (Pub. L. 92.419, August 30, 1972) of the Consolidated Farm and Rural Development Act to improve, develop, or finance business, industry, and employment and improve the economic and environmental climate in rural communities, including pollution abatement control.

The Consolidated Farm and Rural Development Act, Section 310 B(c) (7 U.S.C. 1932(c)), authorizes Rural Business Enterprise Grants to public bodies and nonprofit corporations to facilitate the development of private businesses in rural areas.

The Consolidated Farm and Rural Development Act, Section 310 B(f)(i) (7 U.S.C. 1932(c)), authorized Rural Cooperative Development Grants to nonprofit institutions for the purpose of enabling such institutions to establish and operate centers for rural cooperative development.

The purpose of the debt settlement function for the above programs is to provide the delinquent client with an equitable tool for the compromise, adjustment, cancellation, or charge-off of a debt owned to the Agency.

The information collected is similar to that required by a commercial lender in similar circumstances.

Information will be collected by the field offices from applicants, borrowers, consultants, lenders, and attorneys.

Failure to collect information could result in improper servicing of these loans.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 7.3 hours per response.

Respondents: Public bodies and nonprofit organizations.

Estimated Number of Respondents: 29.

Estimated Number of Responses per Respondent: 4.6.

Estimated Number of Responses: 134.

Estimated Total Annual Burden on Respondents: 990 hours.

Copies of this information collection can be obtained from Jeanne Jacobs, Regulations and Paperwork Management Branch, (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 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: June 17, 2013.

Tammye Treviño,

Administrator, Rural Housing Service.

[FR Doc. 2013–15337 Filed 6–26–13; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: National Estuaries Restoration Inventory.

OMB Control Number: 0648–0479.

Form Number(s): NA.

Type of Request: Regular submission (revision and extension of a current information collection).

Number of Respondents: 31.

Average Hours per Response: New entries into project database, 4 hours; updates, 2 hours.

Burden Hours: 103.

Needs and Uses: This request is for revision and extension of a currently approved information collection.

Collection of estuary habitat restoration project information (e.g.,

location, habitat type, goals, status, monitoring information) will be undertaken in order to populate a restoration project database mandated by the Estuary Restoration Act of 2000. The database is intended to provide information to improve restoration methods, provide the basis for required reports to Congress, and track estuary habitat acreage restored. Estuary habitat restoration project information will be submitted by habitat restoration project managers and will be accessible to the public via Internet for data queries and project reports.

Revision: The collection method has been revised to only include paper or fillable Adobe forms, instead of web-based data entry forms, as maintaining the web-based data entry option is not cost-effective.

Affected Public: Not-for-profit institutions.

Frequency: Annually and on occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: *OIRA_Submission@omb.eop.gov.*

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov.*

Dated: June 21, 2013.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–15327 Filed 6–26–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

International Trade Administration

Architecture Services Trade Mission to Rio de Janeiro and Recife, Brazil, October 7–10, 2013

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

Mission Description

The United States Department of Commerce, International Trade Administration (ITA), U.S. and Foreign Commercial Service (CS), with support from the American Institute of Architects (*http://www.aia.org*), is organizing an executive-led Architecture Services Trade Mission to Brazil from October 7 to 10, 2013. The purpose of the mission is to introduce U.S. firms to Brazil's rapidly expanding infrastructure projects, and to assist U.S. companies to pursue export opportunities in this sector. The mission to Brazil is designed for U.S. architectural, project management, and design services companies, that provide state-of-the-art and world class designs. Target sectors holding high potential for U.S exporters include: master planning (regional design—city planning or regional planning, port re-development—design of the walkways, buildings, etc. along the port); hospitals and health care architecture; airports/ other transportation infrastructure facility architecture; mixed-use projects architectural services; and educational facilities.

The mission will include stops in Rio de Janeiro and Recife, where participants will receive market briefings and participate in customized meetings with key officials and prospective partners.

The mission supports President Obama's National Export Initiative (NEI) and his goal of doubling U.S. exports by 2015 to strengthen the U.S. economy and U.S. competitiveness through meaningful job creation. The mission will help U.S. companies already doing business in Brazil 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 Brazil. 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 Brazil on their own, will enhance the companies' ability to secure meetings in Brazil.

The mission will be supported by the American Institute of Architects (AIA) (*http://www.aia.org*). All U.S. architecture/construction/engineering (ACE) trade associations or organizations are encouraged to apply. The mission is open broadly to all U.S. firms, service providers, and organizations in the ACE sector, whether or not they are members of AIA or any other ACE trade association/ organization. Selection criteria for participation, as set out below, are the same for all applicants.

Commercial Setting

Brazil is experiencing major growth in the ACE industry. The country will capture global attention as its major cities are undergoing a construction boom in preparation for the World Cup in 2014 and, specifically for Rio de Janeiro, the Olympic Games in 2016.

Architectural design and Engineering projects around the country, from roads and stadiums to airports and retail space, are abundant. Although there is strong competition from local firms, American ACE firms with a niche expertise are welcome to do business in Brazil by working with local partners, provided they understand the legal and regulatory requirements and procedures for being able to work in Brazil. U.S. and international ACE companies are finding business in Brazil because of the high level of private sector and government investments in infrastructure.

The Brazilian Equipment and Maintenance Technology Association (Sobratema) states that the infrastructure sector is estimated to receive US$600 billion in investments from 2013 through 2017. The sum will be divided between the energy and infrastructure sectors, with a larger amount allocated for infrastructure development such as road, rail, ports and stadiums.

US$66.5 billion will be invested over 25 years in building 7,500 km of highways and 10,000 km of railways in Brazil. US$1.10 billion will be invested in Ports and another US$3.15 billion will be invested in Port terminals.

In the airport sector, three of the major airports have been recently privatized and two more are scheduled to be privatized by the end of 2013, in the major cities of Rio de Janeiro and Belo Horizonte. The Brazilian Federal Government will invest US$3.65 billion in 270 airports around the country, with the goal that 96% of Brazilians will be no more than 100 km from an airport. Please see Country Commercial Guide Airport Industry best prospect at *http://export.gov/brazil/doingbusinessinbrazil/index.asp.*

The outlook for the coming years seems positive, especially due to the model outlined in the Public-Private Partnerships (PPPs) of Brazil's Growth Acceleration Program (PAC) (*http://homologacao.brasilglobalnet.gov.br/CDInvestimento/dados/I/7.3.ParceriasPublicoPrivadasPPPs.aspx*). It is expected that concessions and privatizations in many infrastructure

projects will provide the opportunity for further investments in the future. These major investments will bring many opportunities for ACE firms that are capable and ready to partner with local construction and engineering firms that are active in PPP projects.

Best Prospects in the architectural sector can be found in areas such as airports, ports, hospitals, and include:

—Ports (Port of Rio and Santos re-development—design of the walkways, buildings, along the port)
—Airport design (such as airport terminals, existing and expansion of terminals, security)
—Industrial design for plants, manufacturing, new or planned extensions
—Health sectors (new hospitals and upgrades to existing)
—Lighting design, including commercial, industrial, urban (LED is increasingly gaining popularity in Brazil)
—Urban planning (non-residential design, technology, and equipment for "smart cities")
—Sport venues design and equipment
—Building Information Modeling (BIM) Process

Many ACE projects are now being required to contain sustainable or "green" content, according to Leadership in Energy and Environmental Design (*LEED)* and other certification programs.

Rio de Janeiro

The 2014 FIFA World Cup is scheduled to take place from June 12 to July 13, 2014 throughout 12 cities in Brazil. Rio de Janeiro will also host the 2016 Summer Olympics Games. This will be the first Summer Olympics held during the host city's wintertime, as well as the first time a South American city will host the event. The pressure is now on Brazil to convince the world they can handle events of this magnitude.

Although more than half of Rio's Olympics venues are already built, a legacy from the Rio 2007 Pan American Games, investments from 2010 through 2016 will reach approximately US$50 billion, including airport renovation, stadium construction and renovations and infrastructure projects—all in preparation for the thousands of tourists who will attend these major events. Unlike in London, the percentage of investments dedicated to transportation such as buses, beltways and metro lines will be higher than investments dedicated to Olympic sports projects such as arenas and stadiums. Many projects are funded through the Public-Private Partnerships (PPPs). The Port area and the international airport (GIG) will be undergoing major expansions. The international airport in Rio is scheduled to be announced for privatization around the fall of 2013, creating opportunities for architectural firms to partner with concession winners. For an understanding of the regulatory environment that architectural design firms face in Brazil, please read our report on licensing at: *http://export.gov/brazil/games/eg_br_024085.asp.*

Recife

Recife is the capital of the state of Pernambuco and the largest city in Brazil's Northeast with a population of more than 8 million people in the metropolitan area. It will also serve as a host city for the 2014 World Cup. The Northeast is Brazil's fastest-growing region, and Pernambuco is Brazil's fastest-growing population center. Pernambuco and Recife have generated the highest economic growth rates in recent years, and infrastructure projects to support the growth abound. In the last two years, Brazil's gross domestic product grew 7.5 and 2.7 percent. Meanwhile, Pernambuco's economy grew by 9.3 and 4.5 percent respectively, according to the Brazilian statistics agency. Many Brazilians now migrate to the Northeast to find work, a complete turn-around from the historical migration pattern.

Pernambuco is home to the industrial complex and port of Suape, which has more than 100 companies present and a further 25 in various phases of starting up. According to the Global Director at the port, private investment now equals around $27 billion. Suape also hosts the largest shipyard in the Southern Hemisphere and Petrobras' Abreu e Lima refinery, the largest and most modern oil refinery in Brazil. Two new shipyards are under construction. The state government is also building the Suape Business Center that will have a 192-room hotel and four business towers to support the business community around Suape.

Logistics in the region are also an area of investment, with Pernambuco planning to invest $31 billion. This includes over $5 billion for the railway connecting two ports, Suape and Pecem (in the state of Ceara), with the interior of the region. According to local business leaders, the government of Pernambuco plans to invest $20 billion over the next 10 years to build 14 planned cities. One such city, Cidade da Copa, is being built in conjunction with the Pernambuco Arena, Recife's newly built stadium seating 47,000 spectators that will host World Cup games. It will be one of the first "smart" cities constructed in Latin America. Cidade da Copa is planned to have residential and business units, a university campus, an indoor arena, a hotel, and a convention center.

Mission Goals

The goals of the Architecture Services Trade Mission to Brazil are to provide U.S. participants with first-hand market information, and one-on-one meetings with business contacts, including potential partners, so that they can position themselves to enter or expand their presence in the Brazilian market. As such, the mission will focus on helping U.S. companies obtain market information and establish business and government contacts.

The mission will also facilitate first-hand market exposure and access to government decision makers and key private-sector industry contacts, especially potential partners. It will provide opportunities for participants to have policy and regulatory framework discussions with Brazilian government officials and private sector representatives, in order to advance U.S. architectural sector interests in Brazil. It will provide participants with an opportunity to meet with Brazilian architecture trade associations, such as ASBEA and CAU, to foster long-term partnerships and for sharing best practices and continuing education, especially with trade association/organization participants.

Mission Scenario

The mission will start in Rio de Janeiro with a welcome dinner on Sunday, March 6. The next day the participants will attend a briefing organized by CS Rio before introducing guest speakers to provide an overview of the city and state projects. Additional planned events include site tours and matchmaking events with ACE potential partners, including briefings on the upcoming airport concessions and/or port areas, city planners etc.

In Recife, the delegates will start with briefings by local industry and government officials on the opportunities available in Recife, the state of Pernambuco, and the Northeast region. The afternoon's agenda will comprise one-on-one matchmaking meetings.

The following day, mission participants will have the opportunity to tour the port of Suape. In addition to being the largest port in the region, it hosts an expanding industrial cluster. Because of the large number of people employed and the distance from the

port to the city of Recife, various planned cities are being constructed in the area, which we will tour.

The participants will attend policy, market and commercial briefings by the U.S. Commercial Service and industry experts as well as networking events offering further opportunities to speak with government officials as well as potential distributors, agents, partners and end users. U.S. participants will be counseled before and after the mission by CS Brazil staff. Participation in the mission will include the following:

- Pre-travel briefings on subjects from business practices in Brazil to security;
- Pre-scheduled meetings with government officials, potential partners, developers, and local industry contacts in Recife and Rio de Janeiro
- Airport transfers during the mission between the stops in Rio and Recife;
- Participation in networking receptions in Rio and Recife: and participation in matchmaking meetings with potential partners and developers in both cities.

Proposed Timetable

Rio de Janeiro

Sunday—October 6
- Arrive in Rio
- Evening Welcome Dinner
- Overnight stay in Rio

Monday—October 7
- Breakfast briefing FCS
- Briefing by industry experts and gov't officials
- Networking lunch w Chamber/ Association
- Matchmaking meetings
- Evening Reception
- Overnight stay in Rio

Rio/Recife

Tuesday—October 8
- Site Visits in Rio
- Networking Lunch in Rio
- Afternoon travel to Recife
- Overnight stay in Recife

Recife

Wednesday—October 9
- Meetings with local industry and government officials
- Networking lunch with local industry representatives
- Matchmaking meetings
- Overnight stay in Recife

Recife

Thursday—October 10
- Site visits
- Mission Officially Ends

Participation Requirements

All parties interested in participating in the trade mission must complete and submit an application package for consideration by the U.S. Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. A minimum of 15 and maximum of 20 firms and/or trade associations or organizations will be selected from the applicant pool to participate in the mission.

Fees and Expenses

After a company or trade association/ organization has been selected to participate on the mission, a payment to the U.S. Department of Commerce in the form of a participation fee is required. The participation fee is *$3,250* for small or medium-sized enterprises (SME) [1] and trade associations/organizations. The participation fee for large firms is *$4,000.00*. The fee for each additional representative (large firm or SME or trade association/organization) is *$750*.

Exclusions

The mission fee does not include any personal travel expenses such as lodging, most meals, local ground transportation (except for transportation to and from meetings, and airport transfers between Rio and Recife during the mission), and air transportation. Delegate members will however, be able to take advantage of U.S. Government rates for hotel rooms. Visas will be required. Government fees and processing expenses to obtain such visas are also not included in the mission costs. However, the U.S. Department of Commerce will provide instructions to each participant on the procedures required to obtain necessary business visas.

Conditions for Participation

Applicants must submit a completed and signed mission application and supplemental application materials, including adequate information on the company's or association/organization's products and/or services, primary market objectives, and goals for participation by August 9, 2013. If the Department of Commerce receives an incomplete application, the Department may either: Reject the application, request additional information/ clarification, 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, are marketed under the name of a U.S. firm and have at least fifty-one percent U.S. content. In the case of a trade association or organization, the applicant must certify that for each company to be represented by the association/organization, the products and/or services the represented company seeks to export are either produced in the United States or, if not, marketed under the name of a U.S. firm and have at least fifty-one percent U.S. content.

In addition, each applicant must:
- Certify that the products and services that it wishes to market through the mission would be in compliance with U.S. export controls and regulations;
- Certify that it has identified to the Department of Commerce for its evaluation any business pending before the Department that may present the appearance of a conflict of interest;
- Certify that it has identified any pending litigation (including any administrative proceedings) to which it is a party that involves the Department of Commerce; and
- Sign and submit an agreement that it and its affiliates (1) have not and will not engage in the bribery of foreign officials in connection with a company's/participant's involvement in this mission, and (2) maintain and enforce a policy that prohibits the bribery of foreign officials.

Selection Criteria for Participation

Targeted mission participants are U.S. companies and trade associations/ organizations providing or promoting ACE services that have an interest in entering or expanding their business in the Brazilian market. The following criteria will be evaluated in selecting participants:
- Suitability of a company's (or in the case of a trade association/organization, represented companies') products or services to the Brazilian market.
- Company's (or in the case of a trade association/organization, represented companies') potential for business in Brazil, including likelihood of exports resulting from the mission.
- Consistency of the applicant company's (or in the case of a trade association/organization, represented companies') goals and objectives with the stated scope of the mission.

Additional factors, such as diversity of company size, type, location, and

[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/services/contracting opportunities/sizestandardstopics/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* for additional information).

demographics, may also be considered during the review process.

Referrals from political organizations and any documents, including the application, 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 Application

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 (*http://www.export.gov/trademissions/*) 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 this mission will begin immediately and conclude no later than August 9, 2013. The U.S. Department of Commerce will review applications and make selection decisions on a rolling basis beginning June 24, 2013 until the maximum of 20 participants is selected. Applications received after August 9, 2013 will be considered only if space and scheduling constraints permit.

Contacts

U.S. Commercial Service Washington, DC

Arica Young, U.S. Commercial Service, Washington, DC, Tel: 202–482–6219. Email: *Arica.Young@trade.gov*.

U.S. Commercial Service Brazil

Patrick Levy, U.S. Commercial Service, Rio de Janeiro, Brazil, Tel: +55+21–3823–2413, Email: *Patrick.Levy@trade.gov*.

Elnora Moye,

Program Assistant.

[FR Doc. 2013–15341 Filed 6–26–13; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

International Trade Administration

Aerospace Executive Service Trade Mission at the Singapore Airshow 2014

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

I. Mission Description

The United States Department of Commerce, International Trade Administration, U.S. and Foreign Commercial Service is organizing an Aerospace Executive Service Trade Mission (AESTM) to Singapore in conjunction with the Singapore Airshow 2014 (*http://www.singaporeairshow.com.sg*).

The AESTM will include representatives from a variety of U.S. aerospace-industry manufacturers and service providers. The mission participants will be introduced to international agents, distributors and end-users whose capabilities are targeted to each participant's needs. This year a key mission goal is to recruit U.S. firms that have not previously participated in this AESTM to the Singapore Airshow.

Mission participants will also be briefed by key local industry leaders who can advise on local market conditions and opportunities.

In addition, the Commercial Service will offer its AsiaNow Showtime program during the Singapore Airshow, where mission participants can meet one-on-one with Commercial Service aerospace and defense industry specialists from various markets in Asia. The industry specialists will be on-hand to discuss market trends and opportunities in their respective markets.

II. Commercial Setting

The Singapore Airshow is Asia's largest aerospace and defense event and is one of the top three air shows in the world, serving as an international marketplace and networking platform for the global aerospace community. Encompassing all civil and military sectors of the international aerospace industry, the Singapore Airshow is the most prominent platform in the Asia-Pacific region for companies to showcase aerospace products and services.

The Asia-Pacific region is widely considered the most promising market for the aerospace industry worldwide. As a leading global aviation hub in Asia Pacific, Singapore (the United States' 13th largest export market in 2012) can serve as an excellent base for taking advantage of growth opportunities stemming from the region's brisk international trade, tourism and investment climate. U.S. aerospace firms looking to establish or expand business in Singapore and other markets in this dynamic region stand to benefit from participating in the Singapore Airshow through the AESTM.

In addition to hosting the Airshow, Singapore is the regional leader in aerospace maintenance, repair and overhaul (MRO), manufacturing, and research and development. Since 1992, Singapore's aerospace industry has grown at an average annual rate of 10% to become the most comprehensive MRO hub in Asia.

Aerospace is one of the fastest-growing industries in Singapore, and the long-term business outlook remains positive. According to business consulting firm Frost & Sullivan, the Asia-Pacific aviation industry is experiencing a faster recovery from its undesirable passenger load factor than anticipated. In fact, Asia-Pacific economies are leading the pace of recovery in the global aviation sector: The Asia-Pacific region is expected to account for approximately 40% (U.S. $270 billion) of the global airline revenue by 2020. The air freight and cargo business has also experienced consistent growth in the Asia-Pacific region. Also, the rising GDP per capita across Asia-Pacific and the increasing level of disposable income of the population will lead to an increase in air travel and therefore higher demand on cabin interiors. Singapore is particularly well-equipped to capture the demand from aviation-related services from this market given its MRO hub status, which will translate into greater opportunities for American suppliers to sell to this lucrative market and beyond.

III. Mission Goals

The mission's goal for the Aerospace Executive Service (AES) at the Singapore Airshow is to facilitate an effective presence for small to medium-sized U.S. companies without the major expenses associated with purchasing and staffing exhibition space. The AES will enable U.S. aerospace companies to familiarize themselves with this important air show, conduct market research, and explore export opportunities through pre-screened meetings with potential partners. It will give the U.S. companies a small presence at the show, with an office infrastructure environment and the support of knowledgeable U.S. Commercial Service staff focused on furthering company-specific objectives. This mission also seeks to recruit a minimum of eight participants new to the AESTM at the Singapore Airshow.

IV. Mission Scenario

Within the U.S. Pavilion at the 2014 Singapore Airshow, the Commercial Service will maintain a 82.75-square-meter booth that will include 60 square

meters of kiosk space for the mission participants, where each participant may display company literature and conduct meetings with visitors to the air show, including buyer delegations from the Asia-Pacific region recruited by Commercial Service staff as part of the AsiaNow program. The Commercial Service booth will also house an area for meetings with Commercial Service staff and a Business Information Office (BIO) reception area (22.75 square meters). Commercial Service staff will be available to provide market information and offer logistical assistance to AESTM participants throughout the trade mission duration at the Singapore Airshow.

In summary, participation in the AESTM includes:

- Pre-show breakfast briefing on February 10;
- Daily transportation to and from the designated hotel and Singapore Airshow:
- Pre-scheduled meetings with potential partners, distributors, and end users recruited by the Commercial Service;
- One show entry pass per company representative;
- Participation in U.S. Exhibitors Welcome Reception;
- One invitation to the U.S. Ambassador's reception per participant;
- Access to Official U.S. Pavilion/BIO amenities, including meeting area and shared business center when not in use for AsiaNow one-on-one appointments;
- Individual kiosk space (4.0 m^2) within the U.S. Pavilion for displaying company marketing materials and conducting meetings;
- Copy of the official 2014 Singapore Airshow Exhibitor's Directory;
- Meetings with Commercial Service aerospace and defense industry specialists from U.S. Embassies and Consulates across the Asia-Pacific region;
- On site logistical support by U.S. Commercial Service staff.

V. Proposed Timetable

Monday, February 10, 2014

Briefing at the designated hotel on country/regional market and AESTM event logistics
One-on-one business matchmaking appointments
Evening welcome reception for U.S. exhibitors

Tuesday, February 11, 2014

Attend U.S. Pavilion opening with VIP delegates at Singapore Airshow
Participate in Singapore Airshow

Wednesday, February 12, 2014

Participate in Singapore Airshow
Evening U.S. Ambassador's Reception

Thursday, February 13–Friday, February 14, 2014

AsiaNow Showtime meetings, participants walk show floor, and conduct any follow-up meetings
Friday afternoon AES Trade Mission participants' debrief with USCS staff
Friday evening no host dinner (optional)

VI. Participation Requirements

All parties interested in participating in the AESTM at the Singapore Airshow must complete and submit an application package for consideration by the Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. A maximum of 15 companies will be selected to participate in the mission from the applicant pool. As a condition of the Singapore Airshow organizer on Commercial Service use of booth space at this event, half of the mission participation (at least eight participants) is reserved for companies that have not previously participated in the AESTM at the Singapore Airshow. These will be selected on a first-come, first-served basis. The remaining participants, up to the maximum of 15, may include companies that have previously participated in the AESTM, also to be selected on a first-come, first-served basis. U.S. companies already doing business in Singapore or elsewhere in the Asia-Pacific region as well as U.S. companies seeking to enter those markets for the first time may apply.

Fees and Expenses

After a company has been selected to participate on the mission, a payment to the Department of Commerce in the form of a participation fee is required. The participation fee will be $8,900 for large firms and $8,400 for a small or medium-sized enterprise (SME).* The fee for each additional firm representative (large firm or SME) is $300. The participation fee is inclusive of registration for exhibiting at the Singapore Airshow. Expenses for travel to and from Singapore, lodging, 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 market objectives, and goals for participation. The applicant must also state whether the company has previously participated in the AESTM at the Singapore Airshow. If the 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.
- Each applicant's products must meet the Singapore Airshow trade fair rules, which can be found at *http://www.singaporeair show.com.sg/*.

Selection Criteria for Participation

Selection will be based on the following criteria:

- Suitability of the company's products or services to the Asia Pacific markets.
- Applicant's potential for business in Asia Pacific, including likelihood of exports resulting from the mission.
- Consistency of the applicant's goals and objectives with the stated scope of the mission.

As explained above, as a condition of the Singapore Airshow organizer on Commercial Service use of booth space at this event, half of the mission participation (at least eight participants) is reserved for companies that have not previously participated in the AESTM at the Singapore Airshow. Previous participation in the AESTM at the Singapore Airshow will be considered in making selection decisions for these eight opportunities to participate. Previous experience will not be considered when selecting applicants for the remaining seven opportunities.

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.

* 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/services/contractingopportunities/sizestandardstopics/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/initiotives.html* for additional information).

VII. Timeframe for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register** and posting on the Commerce Department trade missions calendar—*http://export.gov/trademissions/*— and other Internet Web sites, publication in domestic trade publications and association newsletters, mailings from internal mailing lists, faxes to internal aerospace clients, emails to aerospace distribution lists, and promotion at industry meetings, symposia, conferences, trade shows, and other events. The ITA Aerospace and Defense Technology Team members in U.S. Export Assistance Centers will have the lead in recruiting the AESTM.

Recruitment for the mission will begin immediately and conclude no later than November 30, 2013. The mission will open on a first-come, first-served basis, as outlined above in the Participation Requirements section. Applications received after November 30, 2013, will be considered only if space and scheduling constraints permit.

CONTACTS

Aerospace and defense technology team:	U.S. and foreign commercial service in Singapore:
Jason Sproule, Irvine U.S. Export Assistance Center, 2302 Marin Court, Suite 315, Irvine, CA 92612, Tel: (949) 660–1688/Fax: (949) 660–1338, Email: *Jason.Sproule@trade.gov.*	Hawcheng Ng, American Embassy, 27 Napier Road, Singapore 258508, Tel. 011–(65) 6476–9037, Fax 011–(65) 6476–9080, Email: *Hawcheng.Ng@trade.gov.*

Elnora Moye,

Trade Program Assistant.

[FR Doc. 2013–15340 Filed 6–26–13; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC719

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that an Exempted Fishing Permit application contains all of the required information and warrants further consideration and that the activities authorized under this Exempted Fishing Permit would be consistent with the goals and objectives of the Monkfish Fishery Management Plan. However, further review and consultation may be necessary before a final determination is made to issue an Exempted Fishing Permit. The Exempted Fishing Permit would grant exemptions from monkfish days-at-sea possession limits. The primary goal of this study, by the University of Maryland Eastern Shore, is to investigate the influence of temperature on monkfish distribution and abundance.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed Exempted Fishing Permits.

DATES: Comments must be received on or before July 12, 2013.

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

- *Email: nero.efp@noaa.gov.* Include in the subject line "Comments on UMES Monkfish RSA EFP."
- *Mail:* John K. Bullard, Regional Administrator, NMFS, NE Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on UMES monkfish RSA EFP."
- *Fax:* (978) 281–9135.

FOR FURTHER INFORMATION CONTACT: Jason Berthiaume, Fishery Management Specialist, 978–281–9177.

SUPPLEMENTARY INFORMATION: The University of Maryland Eastern Shore (UMES) submitted a complete application for an Exempted Fishing Permit (EFP) on May 20, 2013, to conduct fishing activities that the regulations would otherwise prohibit. The EFP would exempt vessels from monkfish days-at-sea (DAS) possession limits in the Northern and Southern Monkfish Fishery Management Areas (SFMA). The applicants have identified eight vessels that would conduct monkfish compensation fishing under the requested EFP. Compensation fishing may occur through April 2014, with a possible extension through April 2015.

This study was awarded 99 DAS under the 2013 Monkfish Research Set-Aside (RSA) Program. The primary goal of this study is to investigate the influence of temperature on monkfish distribution and abundance. This study is intended to provide information on the biology of monkfish that could be used to enhance the management of this species. Participating vessels will receive temperature and depth loggers to attach to their gillnets during RSA compensation fishing trips. The loggers would collect temperature and depth at intervals of 1 hour, and would be downloaded approximately every 2 months. Catch data (number and size of monkfish) from panels with probes would be recorded by collaborating fishermen, along with information on location, depth fished, water currents, and lunar cycle. UMES plans to collect histological samples on board the fishing vessels from a subset of trips for analysis of reproductive condition. Weights and length measurements would be taken each trip from a minimum of 25 randomly selected monkfish from the nets with attached temperature probes to gain information about fish distribution. Fishing activity would otherwise be conducted under normal monkfish commercial fishing practices. The vessels would use standard commercial gear and land monkfish for sale.

Monkfish EFPs that waive possession limits were first issued in 2007, and each year thereafter through 2011. The EFPs were approved to increase operational efficiency and to optimize research funds generated from RSA DAS. To ensure that the amount of monkfish harvested by vessels operating under the EFPs was similar to the amount of monkfish that was anticipated to be harvested under the 500 RSA DAS set-aside by the New England and Mid-Atlantic Fishery Management Councils, NOAA's National Marine Fisheries Service associates 3,200 lb (1,451 kg) of whole

monkfish per RSA DAS. This amount is double the possession limit of Permit Category A and C vessels fishing in the SFMA. This was deemed a reasonable approximation because it is reflective of how the standard monkfish commercial fishery operates. It is likely that RSA grant recipients would optimize their RSA DAS award by utilizing this possession limit. Therefore, if approved, participating vessels could use up to 99 DAS, or up to 316,800 lb (143,698 kg) of whole monkfish, under the EFP, whichever comes first.

The applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: June 24, 2013.

Kelly Denit,

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

[FR Doc. 2013–15480 Filed 6–26–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC720

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that an exempted fishing permit application contains all of the required information and warrants further consideration. This exempted fishing permit would facilitate compensation fishing under the monkfish Research Set-Aside Program by exempting vessels from monkfish days-at-sea possession limits. The compensation fishing is in support of a 2013 Monkfish Research Set-Aside project that is attempting to validate monkfish aging methods. The project is being conducted by the University of Massachusetts, Dartmouth, School for Marine Science and Technology.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed exempted fishing permits.

DATES: Comments must be received on or before July 12, 2013.

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

- *Email: nero.efp@noaa.gov.* Include in the subject line "Comments on SMAST Monkfish RSA EFP."
- *Mail:* John K. Bullard, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on SMAST Monkfish RSA EFP."
- *Fax:* (978) 281–9135.

FOR FURTHER INFORMATION CONTACT: Jason Berthiaume, Fishery Management Specialist, 978–281–9177.

SUPPLEMENTARY INFORMATION: The University of Massachusetts, Dartmouth, School for Marine Science and Technology (SMAST) submitted an application for an Exempted Fishing Permit (EFP) on May 14, 2013, requesting exemptions from the monkfish days-at-sea (DAS) possession limits to facilitate research that proposes to investigate monkfish large-scale movement patterns using data storage tags and to validate monkfish aging. The study was awarded 327 DAS under the 2013 Monkfish Research Set-Aside (RSA) Program.

The EFP would exempt vessels from the monkfish possession limits in the Southern (SFMA) and Northern Monkfish Fishery Management Areas. Up to 50 vessels could conduct monkfish compensation fishing under the requested EFP. Fishing activity would otherwise be conducted under normal monkfish commercial fishing practices. The vessels would use standard commercial gear and land monkfish for sale. Compensation fishing may occur through April 2014, with a possible extension through April 2015.

Monkfish EFPs that waive possession limits were first issued in 2007, and each year thereafter through 2011. The EFPs were approved to increase operational efficiency and to optimize research funds generated from RSA DAS. To ensure that the amount of monkfish harvested by vessels operating under the EFPs was similar to the amount of monkfish that was anticipated to be harvested under the 500 RSA DAS set-aside by the New England and Mid-Atlantic Fishery Management Councils, NOAA's National Marine Fisheries Service associates 3,200 lb (1,451 kg) of whole monkfish per RSA DAS. This amount is double the possession limit of Permit Category A and C vessels fishing in the SFMA. This was deemed a reasonable approximation because it is reflective of how the standard monkfish commercial fishery operates. It is likely that RSA grant recipients would optimize their RSA DAS award by utilizing this possession limit. Therefore, if approved, participating vessels could use up to 327 DAS, or up to 1,046,400 lb (474,639 kg) of whole monkfish, under the EFP, whichever comes first.

If approved, the applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: June 24, 2013.

Kelly Denit,

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

[FR Doc. 2013–15474 Filed 6–26–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2013–OS–0070]

Submission for OMB review; comment request

ACTION: Notice.

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 July 29, 2013.

Title, Associated Form and OMB Number: Data Item Descriptions in ASSIST (formally AMSDL); Numerous forms; OMB Control Number 0704–0188.

Type of Request: Extension.

Number of Respondents: 1140.

Responses Per Respondent: 432.

Annual Responses: 492,480.

Average Burden per Response: 66 hours.

Annual Burden Hours: 32,503,680.

Needs and Uses: The data item descriptions in the ASSIST database, formally the Acquisition Management Systems and Data Requirements Control List (AMSDL), contain data requirements used in Department of Defense (DoD) contracts. The information collected will be used by DoD personnel and other DoD contractors to support the design, test, manufacture, training, operation, and maintenance of procured items, including weapons systems critical to the national defense.

Affected Public: Business or other For-Profit, and Not-For-Profit institutions.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. John Kraemer.

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: June 21, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–15333 Filed 6–26–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2013–OS–0071]

Submission for OMB Review; Comment Request

ACTION: Notice.

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 July 29, 2013.

Title, Associated Form and OMB Number: Physician Certificate for Child Annuitant, DD Form 2828, 0730–0011

Type of Request: Extension

Number of Respondents: 120

Responses per Respondent: 1

Annual Responses: 120

Average Burden per Response: 2 hours

Annual Burden Hours: 240 hours

Needs and Uses: This form is required and must be on file to support an incapacitation occurring prior to age 18. The form provides the authority for the Directorate of Annuity Pay, Defense Finance and Accounting Service—Cleveland to establish and pay a Retired Serviceman's Family Protection Plan (RSFPP) or Survivor Benefit Plan (SBP) annuity to the incapacitated individual.

Affected Public: Incapacitated child annuitants, and/or legal guardians, custodians and legal representatives.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503. You may also submit comments, identified by docket number and title, by the following method:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for 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: June 24, 2013.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–15440 Filed 6–26–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2013–OS–0089]

Submission for OMB Review; Comment Request

ACTION: Notice.

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 July 29, 2013.

Title, Associated Form and OMB *Number:* Customer Satisfaction Surveys—Generic Clearance; OMB Control Number 0704–0403.

Type of Request: Extension.

Surveys Other Than Adhoc Surveys:

Number of Respondents: 5,500.

Responses Per Respondent: 1.

Annual Responses: 5,500.

Adhoc Surveys:

Number of Respondents: 200.

Responses Per Respondent: 3.

Annual Responses: 600.

Total:

Number of Respondents: 5,700.

Annual Responses: 6,100.

Average Burden Per Response: 6.25 minutes (average).

Annual Burden Hours: 636 hours.

Needs and Uses: The information collection requirement is necessary to assess the level of service the DTIC provides to its current customers. The surveys will provide information on the level of overall customer satisfaction as well as on customer satisfaction with several attributes of service that impact the level of overall satisfaction. These customer satisfaction surveys are required to implement Executive Order 12862, "Setting Customer Service Standards." Respondents are DTIC registered users who are components of the DoD, military services, other Federal

Government Agencies, U.S. Government contractors, and universities involved in federally funded research. The information obtained by these surveys will be used to assist agency senior management in determining agency business policies and processes that should be selected for examination, modification, and reengineering from the customer's perspective. These surveys will also provide statistical and demographic basis for the design of follow-on surveys. Future surveys will be used to assist monitoring of changes in the level of customer satisfaction over time.

Affected Public: Business or other for-profit; Not for Profit Institutions.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

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: June 21, 2013.

Aaron Siegel,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2013–15318 Filed 6–26–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2013–OS–0058]

Submission for OMB Review; Comment Request

ACTION: Notice.

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 July 29, 2013.

Title, Associated Form and OMB Number: Synchronized Predeployment and Operational Tracker (SPOT) System; OMB Control Number 0704–0460.

Type of Request: Extension.

Number of Respondents: 1300.

Responses per Respondent: Average of 231.

Annual Responses: 300,000.

Average Burden per Response: 30 minutes.

Annual Burden Hours: 150,000.

Needs and Uses: In accordance with section 861 of Public Law 110–181 and DoD Instruction 3020.41, "Operational Contract Support" and other appropriate policy, Memoranda of Understanding, and regulations, the DoD Components, the Department of State (DoS), and the United States Agency for International Development (USAID) shall ensure that contractors enter data into the Synchronized Predeployment and Operational Tracker (SPOT) System before deployment outside of the United States. Data collection on contractors is a condition of their contract when DFARS 252.225–7040 is incorporated and persons who choose not to have data collected will not be entitled to employment opportunities which require this data to be collected.

Affected Public: Business or other for-profit.

Frequency: On occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

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: June 21, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–15317 Filed 6–26–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2013–0022]

Submission for OMB review; comment request

ACTION: Notice.

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 July 29, 2013.

Title, Associated Form and OMB Number: United States Air Force Museum System Volunteer Application/Registration; Air Force IMT 3569; OMB Control Number 0701–0127.

Type of Request: Extension.

Number of Respondents: 198.

Responses per Respondent: 1.

Annual Responses: 198.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 50.

Needs and Uses: The information collection requirement is necessary to provide (a) the general public an instrument to interface with the USAF Heritage Program Volunteer Program; (b) the USAF Heritage Program the means with which to select respondents

pursuant to the USAF Heritage Program Volunteer Program. The primary use of the information collection includes the evaluation and placement of respondents within the USAF Heritage Program Volunteer Program.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra. Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

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: June 21, 2013.

Aaron Siegel,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2013–15316 Filed 6–26–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Basic Energy Sciences Advisory Committee

AGENCY: Department of Energy, Office of Science.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a meeting of the Basic Energy Sciences Advisory Committee (BESAC). The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register.**

DATES: Thursday, July 25, 2013, 8:30 a.m.–5:00 p.m.; and Friday, July 26, 2013, 9:00 a.m. to 12:00 noon.

ADDRESSES: Bethesda North Hotel and Conference Center; 5701 Marinelli Road, Bethesda, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Katie Perine; Office of Basic Energy Sciences; U.S. Department of Energy; Germantown Building, 1000 Independence Avenue SW., Washington, DC 20585; Telephone: (301) 903–6529.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: The purpose of this meeting is to provide advice and guidance with respect to the basic energy sciences research program.

Tentative Agenda: Agenda will include discussions of the following:

- News from Office of Science/DOE
- News from the Office of Basic Energy Sciences
- Report out from the Committee of Visitors for the Scientific User Facilities Division
- Report out from the Committee of Visitors for the EFRC/JCAP Review.

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Katie Perine at 301–903–6594 (fax) or *katie.perine@science.doe.gov* (email). Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of this meeting will be available for public review and copying within sixty days at the following Web site: *http://science.energy.gov/bes/besac/.*

Issued in Washington, DC, on June 21, 2013.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2013–15400 Filed 6–26–13; 8:45 am]

BILLING CODE 6450–01–P,

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. RF–028]

Decision and Order Granting a Waiver to GE Appliances From the Department of Energy Residential Refrigerator and Refrigerator-Freezer Test Procedures

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

ACTION: Decision and order.

SUMMARY: The U.S. Department of Energy (DOE) gives notice of the decision and order (Case No. RF–028) that grants to GE Appliances (GE) a waiver from the DOE electric refrigerator and refrigerator-freezer test procedures for determining the energy consumption of residential refrigerator-freezers for the basic models set forth in its petition for waiver. Under today's decision and order, GE shall be required to test and rate its refrigerator-freezers with separate fresh-food and freezer evaporators and a compressor that cycles in a non-uniform pattern using an alternate test procedure that takes this technology into account when measuring energy consumption.

DATES: This Decision and Order is effective June 27, 2013.

FOR FURTHER INFORMATION CONTACT: Mr. Bryan Berringer, U.S. Department of Energy, Building Technologies Program, Mail Stop EE–2J, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–0371. Email: *Bryan.Berringer@ee.doe.gov.*

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–71, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0103. Telephone: (202) 586–8145. Email: *Michael.Kido@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: DOE gives notice of the issuance of its decision and order as set forth below. The decision and order grants GE a waiver from the applicable residential refrigerator and refrigerator-freezer test procedures found in 10 CFR part 430, subpart B, appendix A1 for certain basic models of refrigerator-freezers with separate fresh-food and freezer evaporators and a compressor that cycles in a non-uniform pattern, provided that GE tests and rates such products using the alternate test procedure described in this notice. Today's decision prohibits GE from making representations concerning the energy efficiency of these products

unless the product has been tested in a manner consistent with the provisions and restrictions in the alternate test procedure set forth in the decision and order below, and the representations fairly disclose the test results.

Distributors, retailers, and private labelers are held to the same standard when making representations regarding the energy efficiency of these products.

Issued in Washington, DC, on June 21, 2013.

Kathleen B. Hogan,

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

Decision and Order

In the Matter of: GE Appliances (Case No. RF–028)

I. Background and Authority

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94–163 (42 U.S.C. 6291–6309, as codified) established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering most major household appliances, which includes the residential electric refrigerators and refrigerator-freezers that are the focus of this notice.[1] Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results which measure energy efficiency, energy use, or estimated operating costs, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for residential electric refrigerators and refrigerator-freezers is set forth in 10 CFR part 430, subpart B, appendix A1.

DOE's regulations for covered products contain provisions allowing a person to seek a waiver from the test procedure requirements for a particular basic model for covered consumer products when (1) the petitioner's basic model for which the petition for waiver was submitted contains one or more design characteristics that prevent testing according to the prescribed test procedure, or (2) when prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1). Petitioners must include in their petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption characteristics.

The Assistant Secretary for Energy Efficiency and Renewable Energy (the Assistant Secretary) may grant a waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(l). Waivers remain in effect pursuant to the provisions of 10 CFR 430.27(m).

Any interested person who has submitted a petition for waiver may also file an application for interim waiver of the applicable test procedure requirements. 10 CFR 430.27(a)(2). The Assistant Secretary will grant an interim waiver request if it is determined that the applicant will experience economic hardship if the interim waiver is denied, if it appears likely that the petition for waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver. 10 CFR 430.27(g).

II. GE's Petition for Waiver: Assertions and Determinations

On February 15, 2013, GE submitted via electronic mail an undated petition for waiver from the test procedure applicable to residential electric refrigerators and refrigerator-freezers set forth in 10 CFR part 430, subpart B, appendix A1. GE is designing new refrigerator-freezers with separate fresh-food and freezer evaporators and a compressor that cycles in a non-uniform pattern. In its petition, GE seeks a waiver from the test procedure for refrigerator-freezers provided in appendix A1 because that test procedure does not provide a means to measure the energy use of products with multiple defrost cycles. The petition further states that, because of these models' non-uniform compressor cycles, they cannot attain the 0.5 °F temperature differential between compressor cycles that is required in order to identify regular compressor operation using the method specified for the second part of the Appendix A test that will be required starting in 2014. Therefore, GE has asked to use an alternate test procedure. DOE did not receive any comments on the GE petition.

III. Consultations With Other Agencies

DOE consulted with the Federal Trade Commission (FTC) staff concerning the GE petition for waiver. The FTC staff did not have any objections to granting a waiver to GE.

IV. Conclusion

After careful consideration of all the material that was submitted by GE and consultation with the FTC staff, it is ordered that:

(1) The petition for waiver submitted by GE Appliances (Case No. RF–028) is hereby granted as set forth in the paragraphs below.

(2) GE shall be required to test and rate the following GE models according to the alternate test procedure set forth in paragraph (3) below.

CYE23T*D****
PYE23P*D****
PYE23K*D****
PWE23K*D****

(3) GE shall be required to test the products listed in paragraph (2) above according to the test procedures for electric refrigerator-freezers prescribed by DOE at 10 CFR part 430, appendix A1, except that it would use a modified version of the test period specified in section 4 and the energy use calculation for products with long-time or variable defrost control and multiple defrost cycle types in section 5.2.1.5 of Appendix A. As described by GE, Part 2 of the test ($T2_i$ in the formula) would be defined as the series of cycles prior to and following the defrost period, identified as the A_{1-j} and B_{1-k} cycles, respectively. These cycles would be used to determine when the 0.5 °F temperature differential has been achieved.

As an example, if the average temperatures for Part 1 of the test are 37.8 °F and 0.2 °F in the fresh food and freezer compartments, respectively, and the temperatures for the Cycle B series of Part 2 of the test (i.e., Cycles B_{1-k}), are as follows:

	Fresh food	Freezer
B1	42.1 °F	4.3 °F
B1–2	40.2 °F	2.1 °F
B1–3	38.0 °F	0.0 °F

then the average temperatures for the Cycle B series are 38.0 °F and 0.0 °F, which are within the 0.5 °F (0.3 °C) requirement. In this example, Part 2 ends after cycle B3.

During the period of the interim waiver granted in this notice, GE shall test the products listed above according to the test procedures for residential electric refrigerator-freezers prescribed by DOE at 10 CFR part 430, subpart B, appendix A1, except that, for the GE products listed above only, include:

1. In section 4, test period, the following:

4. Test Period

* * * * *

[1] For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

4.2.1 Long-time Automatic Defrost with Nonuniform Compressor Cycling and Multiple Defrost Cycle Types. The two-part test described in this section shall be used. The first part is a stable period of compressor operation that includes no portions of the defrost cycle, such as precooling or recovery. The second part is designed to capture the energy consumed during all of the events occurring with the defrost control sequence that are outside of stable operation. The second part of the method will be conducted separately for each distinct defrost cycle type.

4.2.1.1 Measurement Frequency. Measurements shall be taken at intervals not exceeding one minute. Steady state conditions as described in section 2.9 shall be verified using measurements taken at intervals not exceeding one minute.

4.2.1.2 The test period for the first part of the test shall start at the start of a compressor "on" cycle after steady-state conditions have been achieved and be no less than 3 hours in duration. During the test period, the compressor motor shall complete two or more whole compressor cycles. At the end of the test period both compartment temperatures (fresh food and freezer) shall be within 0.5 °F (0.3 °C) of their measurements at the start of the test period. For this comparison, these compartment temperatures shall be measured at the start and end of the test period rather than averaged for the entire test period, but otherwise shall be defined as described in sections 5.1.3 and 5.1.4. If 24 hours pass before the compartment temperatures meet this requirement, the test period shall comprise a whole number of compressor cycles lasting at least 24 hours.

4.2.1.3 The second part of the test starts at the termination of the first part of the test. The average compartment temperatures as defined in sections 5.1.3 and 5.1.4 for a whole number of compressor cycles occurring after the start of the test period and before the time that the defrost heater is energized must both be within 0.5 14;°F (0.3 °C) of their average temperatures measured for the first part of the test. The test period for the second part of the test ends at the start of a compressor "on" cycle after both compartment temperatures have fully recovered to their stable conditions after the defrost. The average compartment temperatures as defined in sections 5.1.3 and 5.1.4 for a whole number of compressor cycles occurring after temperature recovery and before the end of the test period must both be within 0.5 14;°F (0.3 °C) of their average temperatures measured for the first part of the test. See Figure 1.

Figure 1.

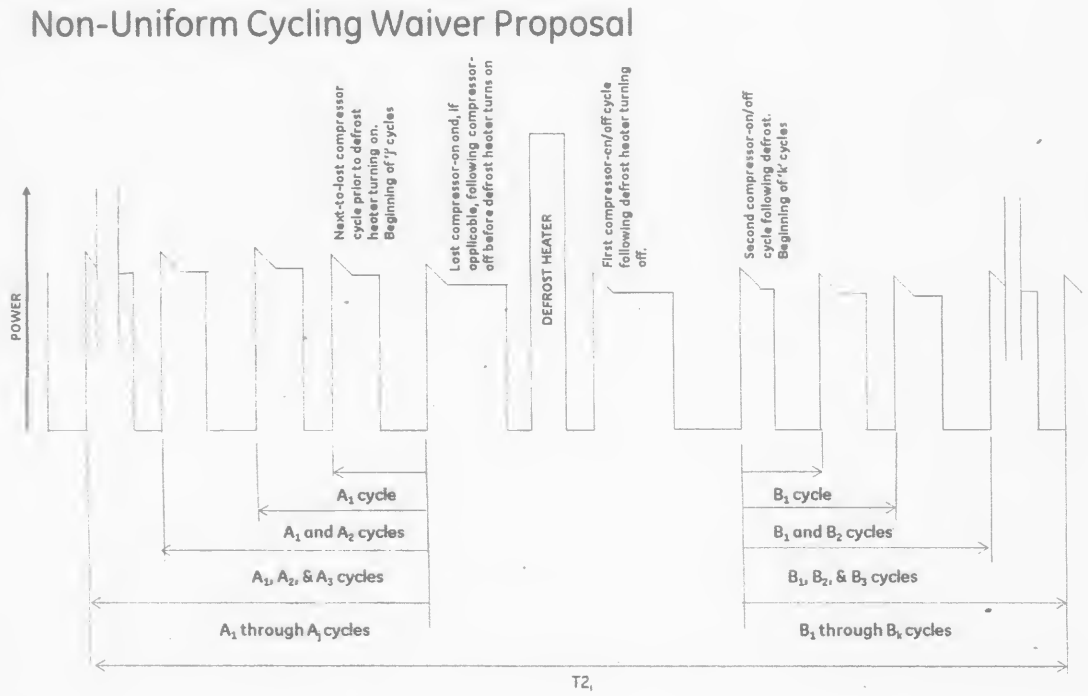

Figure 1 Note: The average temperatures of the compartments for compressor cycles A_1 through A_j shall be within 0.5 °F (0.3 °C) of their temperature averages for the first part of the test. Likewise, the average temperatures of the compartments for compressor cycles B_1 through B_k shall be within 0.5 °F (0.3 °C) of their temperature averages for the first part of the test.

2. In section 5, Test Measurements, the following:

5.2.1.5 Long-time or Variable Defrost Control for Systems with Multiple Defrost cycle Types. The energy consumption in kilowatt-hours per day shall be calculated equivalent to:

$$ET = (1440 \times EP1/T1) + \sum_{i=1}^{D} [(EP2_i - (EP1 \times T2_i/T1)) \times (12/CT_i)]$$

Where:

1440 is defined in 5.2.1.1 and EP1, T1, and 12 are defined in 5.2.1.2;

i is a variable that can equal 1, 2, or more that identifies the distinct defrost cycle types applicable for the refrigerator or refrigerator-freezer;

$EP2_i$ = energy expended in kilowatt-hours during the second part of the test for defrost cycle type i;

$T2_i$ = length of time in minutes of the second part of the test for defrost cycle type i;

CT_i is the compressor run time between instances of defrost cycle type i, for long-time automatic defrost control equal to a fixed time in hours rounded to the nearest tenth of an hour, and for variable defrost control equal to $(CT_{Li} \times CT_{Mi})/(F \times (CT_{Mi} - CT_{Li}) + CT_{Li})$;

CT_{Li} = least or shortest compressor run time between instances of defrost cycle type i in hours rounded to the nearest tenth of an hour (CT_L for the defrost cycle type with the longest compressor run time between defrosts must be greater than or equal to 6 but less than or equal to 12 hours);

CT_{Mi} = maximum compressor run time between instances of defrost cycle type i in hours rounded to the nearest tenth of an hour (greater than CT_{Li} but not more than 96 hours);

For cases in which there are more than one fixed CT value (for long-time defrost models) or more than one CT_M and/or CT_L value (for variable defrost models) for a given defrost cycle type, an average fixed CT value or average CT_M and CT_L values shall be selected for this cycle type so that 12 divided by this value or values is the frequency of occurrence of the defrost cycle type in a 24 hour period, assuming 50% compressor run time.

F = default defrost energy consumption factor, equal to 0.20.

For variable defrost models with no values for CT_{Li} and CT_{Mi} in the algorithm, the default values of 6 and 96 shall be used, respectively.

D is the total number of distinct defrost cycle types.

(4) Representations. GE may make representations about the energy use of its above specified refrigerator-freezer products for compliance, marketing, or other purposes only to the extent that such products have been tested in accordance with the provisions outlined above and such representations fairly disclose the results of such testing.

(5) This waiver shall remain in effect consistent with the provisions of 10 CFR 430.27(m).

(6) This waiver is issued on the condition that the statements, representations, and documentary materials provided by the petitioner are valid. DOE may revoke or modify this waiver at any time if it determines the factual basis underlying the petition for waiver is incorrect, or the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics.

(7) This waiver applies only to those basic models set out in GE's February 15, 2013 petition for waiver. Grant of this waiver does not release a petitioner from the certification requirements set forth at 10 CFR part 429.

Issued in Washington, DC, on June 21, 2013.

Kathleen B. Hogan,

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

[FR Doc. 2013–15421 Filed 6–26–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. RF–029]

Decision and Order Granting a Waiver to GE Appliances From the Department of Energy Residential Refrigerator and Refrigerator-Freezer Test Procedures

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

ACTION: Decision and Order.

SUMMARY: The U.S. Department of Energy (DOE) gives notice of the decision and order (Case No. RF–029) that grants to GE Appliances (GE) a waiver from the DOE electric refrigerator and refrigerator-freezer test procedures for determining the energy consumption of residential refrigerator-freezers for the basic models set forth in its petition for waiver. Under today's decision and order, GE shall be required to test and rate its refrigerator-freezers with dual compressors using an alternate test procedure that takes this technology into account when measuring energy consumption.

DATES: This Decision and Order is effective June 27, 2013.

FOR FURTHER INFORMATION CONTACT: Mr. Bryan Berringer, U.S. Department of Energy, Building Technologies Program, Mail Stop EE–2J, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–0371. Email: *Bryan.Berringer@ee.doe.gov.*

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–71, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0103. Telephone: (202) 586–8145. Email: *Michael.Kido@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: DOE gives notice of the issuance of its decision and order as set forth below. The decision and order grants GE a waiver from the applicable residential refrigerator and refrigerator-freezer test procedures found in 10 CFR part 430, subpart B, appendix A1 for certain basic models of refrigerator-freezers with dual compressors, provided that GE tests and rates such products using the alternate test procedure described in this notice. Today's decision prohibits GE from making representations concerning the energy efficiency of these products unless the product has been tested in a manner consistent with the provisions and restrictions in the alternate test procedure set forth in the decision and order below, and the representations fairly disclose the test results.

Distributors, retailers, and private labelers are held to the same standard when making representations regarding the energy efficiency of these products.

Issued in Washington, DC, on June 21, 2013.

Kathleen B. Hogan,

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

Decision and Order

In the Matter of: GE Appliances (Case No. RF–029).

I. Background and Authority

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94–163 (42 U.S.C. 6291–6309, as codified) established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering most major household appliances, which includes the residential electric refrigerators and refrigerator-freezers that are the focus of this notice.[1] Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require

[1] For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

information and reports from manufacturers. Further, Part B authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results which measure energy efficiency, energy use, or estimated operating costs, and that are not unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for residential electric refrigerators and refrigerator-freezers is set forth in 10 CFR part 430, subpart B, appendix A1.

DOE's regulations for covered products contain provisions allowing a person to seek a waiver from the test procedure requirements for a particular basic model for covered consumer products when (1) the petitioner's basic model for which the petition for waiver was submitted contains one or more design characteristics that prevent testing according to the prescribed test procedure, or (2) when prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1). Petitioners must include in their petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption characteristics.

The Assistant Secretary for Energy Efficiency and Renewable Energy (the Assistant Secretary) may grant a waiver subject to conditions, including adherence to alternate test procedures. 10 CFR 430.27(l). Waivers remain in effect pursuant to the provisions of 10 CFR 430.27(m).

Any interested person who has submitted a petition for waiver may also file an application for interim waiver of the applicable test procedure requirements. 10 CFR 430.27(a)(2). The Assistant Secretary will grant an interim waiver request if it is determined that the applicant will experience economic hardship if the interim waiver is denied, if it appears likely that the petition for waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver. 10 CFR 430.27(g).

II. GE's Petition for Waiver: Assertions and Determinations

On February 28, 2013, GE submitted a petition for waiver from the test procedure applicable to residential electric refrigerators and refrigerator-freezers set forth in 10 CFR part 430, subpart B, appendix A1. GE is seeking a waiver because it is developing new refrigerator-freezers that incorporate a dual-compressor design that is not contemplated under DOE's test procedure. In its petition, GE seeks a waiver from the existing DOE test procedure applicable to refrigerators and refrigerator-freezers under 10 CFR part 430 for the company's shared dual-compressor system products. In its petition, GE has set forth an alternate test procedure and notes in support of its petition that DOE has already granted Sub-Zero a similar waiver pertaining to the use of shared dual compressor-equipped refrigerators. See 76 FR 71335 (November 17, 2011) (interim waiver) and 77 FR 5784 (February 6, 2012) (Decision and Order). DOE has also granted an interim waiver, and Decision and Order to LG. See 77 FR 44603 (July 30, 2012) and 78 FR 18327 (March 26, 2013), respectively. The reasons for which DOE granted Sub-Zero's and LG's waiver request apply as well to the GE basic models that are the subject of this waiver request: These models all use a shared compressor-based system with refrigerant-flow controlled by a 3-way valve and do not have the independent, sealed systems that the DOE test procedure is designed to address. DOE has reviewed the alternate procedure and believes that it will allow for the accurate measurement of the energy use of these products, while alleviating the testing problems associated with GE's implementation of a dual compressor system. DOE did not receive any comments on the GE petition.

III. Consultations With Other Agencies

DOE consulted with the Federal Trade Commission (FTC) staff concerning the GE petition for waiver. The FTC staff did not have any objections to granting a waiver to GE.

IV. Conclusion

After careful consideration of all the material that was submitted by GE and consultation with the FTC staff, it is ordered that:

(1) The petition for waiver submitted by GE Appliances (Case No. RF–029) is hereby granted as set forth in the paragraphs below.

(2) GE shall be required to test and rate the following GE models according to the alternate test procedure set forth in paragraph (3) below.

ZIC30GNDII
ZIK30GNDII

(3) GE shall be required to test the products listed in paragraph (2) above according to the test procedures for electric refrigerator-freezers prescribed by DOE at 10 CFR part 430, appendix A1, except that, for the GE products listed in paragraph (2) only, replace the multiple defrost system, section 5.2.1.4 of appendix A1, with the following:

5.2.1.4 Dual Compressor Systems with Dual Automatic Defrost. The two-part test method in section 4.2.1 must be used, and the energy consumption in kilowatt-hours per day shall be calculated equivalent to:

$$ET = (1440 \text{ x } EP1/T1) + \sum_{i=1}^{D} [(EP2_i - (EP1 \text{ x } T2_i/T1)) \text{ x } (12/CT_i)]$$

Where:

—ET is the test cycle energy (kWh/day);
—1440 = number of minutes in a day;
—EP1 is the dual compressor energy expended during the first part of the test (it is calculated for a whole number of freezer compressor cycles at least 24 hours in duration and may be the summation of several running periods that do not include any precool, defrost, or recovery periods);
—T1 is the length of time for EPI (minutes);
—D is the total number of compartments with distinct defrost systems;
—i is the variable that can equal to 1,2 or more that identifies the compartment with distinct defrost system;
—EP2i is the total energy consumed during the second (defrost) part of the test being conducted for compartment i. (kWh);
—T2i is the length of time (minutes) for the second (defrost) part of the test being conducted for compartment i.
—12 = conversion factor to adjust for a 50% run-time of the compressor in hours/day
—CTi is the compressor on time between defrosts for only compartment i. CTi for compartment i with long time automatic defrost system is calculated as per 10 CFR Part 430, Subpart B, Appendix A1 clause 5.2.1.2. CTi for compartment I with variable defrost system is calculated as per 10 CFR part 430 subpart B, Appendix A1 clause 5.2.1.3. (hours rounded to the nearest tenth of an hour).

Stabilization

The test shall start after a minimum 24 hours stabilization run for each temperature control setting. Steady State for EP1: The temperature average for the

first and last compressor cycle of the test period must be within 1.0 [degrees 1 F (0.6 [degrees 1 C) of the test period temperature average for each compartment. Make this determination for the fresh food compartment for the fresh food compressor cycles closest to the start and end of the test period. If multiple segments are used for test period 1, each segment must comply with above requirement.

Steady State for EP2i

The second (defrost) part of the test must be preceded and followed by regular compressor cycles. The temperature average for the first and last compressor cycle of the test period must be within 1.0 [degrees 1 F (0.6 [degrees 1 C) of the EPI test period temperature average for each compartment.

Test Period for EP2i, T2i

EP2i includes precool, defrost, and recovery time for compartment i, as well as sufficient dual compressor steady state run cycles to allow T2i to be at least 24 hours. The test period shall start at the end of a regular freezer compressor on-cycle after the previous defrost occurrence (refrigerator or freezer). The test period also includes the target defrost and following regular freezer compressor cycles, ending at the end of a regular freezer compressor on-cycle before the next defrost occurrence (refrigerator or freezer). If the previous condition does not meet 24 hours time, additional EP1 steady state segment data could be included. Steady state run cycle data can be utilized in EP1 and EP2i.

Test Measurement Frequency

Measurements shall be taken at regular interval not exceeding 1 minute.

* * * * *

(4) Representations. GE may make representations about the energy use of its dual compressor refrigerator-freezer products for compliance, marketing, or other purposes only to the extent that such products have been tested in accordance with the provisions outlined above and such representations fairly disclose the results of such testing.

(5) This waiver shall remain in effect consistent with the provisions of 10 CER 430.27(m).

(6) This waiver is issued on the condition that the statements, representations, and documentary materials provided by the petitioner are valid. DOE may revoke or modify this waiver at any time if it determines the factual basis underlying the petition for waiver is incorrect, or the results from the alternate test procedure are unrepresentative of the basic models' true energy consumption characteristics.

(7) This waiver applies only to those basic models set out in GE's February 28, 2013 petition for waiver. Grant of this waiver does not release a petitioner from the certification requirements set forth at 10 CFR part 429.

Issued in Washington, DC, on June 21, 2013.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency Energy Efficiency and Renewable Energy

[FR Doc. 2013–15423 Filed 6–26–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP13–501–000]

Dominion Transmission, Inc.; Notice of Application To Amend Certificates and Authorize Abandonment by Sale

Take notice that on June 13, 2013, Dominion Transmission, Inc. (DTI), 120 Tredegar Street, Richmond, VA filed an application under Section 7 of the Natural Gas Act and Part 157 the Commission's Rules and Regulations for authorization abandon its existing Line No. TL–388 and associated facilities by sale to Blue Racer Midstream, LLC (Blue Racer), a gathering company. DTI further requested authority to amend certain certificates to remove and/or replace the affected pipeline interconnects from its Part 157 service agreements, and to abandon related pipeline interconnects on Line No. TL–388, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

DTI plans to cut and cap TL–388 at Texas Eastern Transmission, LP—Summerfield, Tennessee Gas—Pipeline-Gilmore, Rockies Express Pipeline LLC—Noble, and upstream of the interconnect with DTI's TL–384 pipeline near DTI's Gilmore Measuring Station. There potentially may be some very localized, minimal ground disturbances to disconnect the abandoned facilities, and to remove and relocate the M&R equipment.

Following the sale, Blue Racer will use the facilities to provide a gathering function. Blue Racer plans to tie the northern end of TL–388 into Blue Racer's Guernsey to Lewis connector. DTI then plans to tie the southern end of TL–388 into Blue Racer's proposed Berne processing plant. Blue Racer will use the TL–388 facilities to gather Utica Shale production for processing at one of Blue Racer's plants—Natrium, Lewis or Berne. Blue Racer has agreed to pay for all costs of the interim receipt interconnect and will retain ownership of (and DTI will abandon) the interim receipt facilities as part of the transfer of the TL–388 facilities.

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.

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 questions regarding this Application should be directed to Machelle F. Grim, Dominion Resources Services, Inc., 701 East Cary Street, 5th Floor, Richmond, VA 23219, telephone no. (804) 771–3805, facsimile no. (804) 771–4804 and email: *Machelle.F.Grim@dom.com*.

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, before the comment date of this notice, 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 5 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.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Comment Date: 5:00 p.m. Eastern Time on July 11, 2013.

Dated: June 20, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–15409 Filed 6–26–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 9654–018]

Brenda Wirkkala See; Notice of Application Accepted for Filing, 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. *Type of Application:* Surrender of License.

b. *Project No.:* 9654–018.

c. *Date Filed:* December 26, 2012.

d. *Applicant:* Brenda Wirkkala See.

e. *Name of Project:* Burnham Creek Hydroelectric Project.

f. *Location:* Burnham Creek, just upstream from the confluence with the South Fork of the Naselle River, in Pacific County, Washington.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Ms. Brenda Wirkkala See, P.O. Box 99, Naselle, WA 98638 (360) 484–3878.

i. *FERC Contact:* Mr. Henry Woo, (202) 502–8872, *henry.woo@ferc.gov.*

j. Deadline for filing comments, motions to intervene, and protests, is 30 days from the issuance date of this notice by the Commission. 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.* If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and seven copies should be mailed to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. 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.

Please include the project number (P–9654–018) on any comments, motions, or recommendations filed.

k. *Description of Request:* The applicant proposes to surrender the license for the Burnham Creek (P–9654) Hydroelectric Project. The applicant states that the license is being surrendered because the project has been made inoperable due to a hurricane force windstorm in December of 2007 which damaged the power line. The cost of restoring the project is too great when weighed against the benefits that can be obtained.

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/docs-filing/elibrary.asp.* 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.

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. 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 Responsive 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 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 and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the exemption surrender. Agencies may obtain copies of the application directly from the

applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener 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. A copy of all other filings in reference to this application 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 4.34(b) and 385.2010.

Dated: June 20, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–15410 Filed 6–26–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP09–6–001; PF12–7–000; Docket No. CP09–7–001]

LNG Development Company (d/b/a Oregon LNG); Oregon Pipeline Company, LLC; Notice of Application

Take notice that on June 7, 2013, LNG Development Company, LLC (d/b/a Oregon LNG) (Oregon LNG), 8100 NE Parkway Drive, Suite 165, Vancouver, WA 98662, filed in Docket No. CP9–6–001 an application to amend its application filed on October 10, 2008 in Docket No. CP09–6–000 pursuant to Section 3(a) of the Natural Gas Act (NGA) and Parts 153 and 380 of the Commission's regulations, seeking authorization to site, construct and operate a bi-directional LNG terminal and associated facilities in the town of Warrenton in Clatstop County, Oregon, as both a place of exit for the exportation of LNG and as a place of entry for the importation of LNG.

Also take notice that on June 7, 2013, Oregon Pipeline Company, LLC, (Oregon Pipeline Company), 8100 NE Parkway Drive, Suite 165, Vancouver, WA 98662, filed in Docket No. CP9–7–001 an application to amend its application filed on October 10, 2008 in Docket No. CP09–7–000 pursuant to Section 7(c) of the NGA and Parts 157 and 284 of the Commission's regulations, to modify the proposed pipeline route and certain facilities, as well as to enable bi-directional flow of gas on the pipeline. As modified, the proposed pipeline would be routed through Clatsop, Columbia, and Tillamook Counties in Oregon, and Cowlitz County in Washington, and end at a new interconnect with the system of Northwest Pipeline GP (Northwest) near Woodland, Washington.

Specifically, the proposed project will entail the construction, operation and maintenance of the following major facilities: (i) A bidirectional LNG receiving and export facility (including berthing accommodations for a single LNG vessel, unloading facilities, and associated piping and appurtenances); (ii) a liquefaction facility consisting of two liquefaction trains of 4.5 million metric tons per annum each, for an overall nominal liquefaction rate of up to 9.0 MTPA; (iii) vaporization facilities with a base load natural gas send out capacity of 0.5 Bscf/d; (iv) LNG storage facilities (including two LNG storage tanks and associated piping and control equipment) capable of storing a total of 320,000 cubic meters of LNG; (v) associated utilities, infrastructure and support systems; and (vi) an approximately 86.8-mile-long, 36-inch diameter pipeline, which will employ a maximum allowable operating pressure of 1,440 pounds per square inch gauge and deliverability of up to 1.25 Bscf/d, all as more fully set forth in the application which is on file with the Commission and open to public inspection, all as more fully set forth in the application which is on file with the Commission and open to public inspection. Copies of this filing are available for review at the Commission in the Public Reference Room, or may be viewed on the Commission's Web site 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 TTY, (202) 502–8659.

Any questions regarding these applications should be directed to Peter Hansen, LNG Development Company, LLC, 8100 NE Parkway Drive, Suite 165, Vancouver, WA 98662, (503) 298–4967, *peterh@oregonlng.com* or Lisa M. Tonery, Fulbright & Jaworski LLP, 666 Fifth Avenue, New York, NY 10103, (212) 318–3009, *lisa.tonery@noronrosefulbright.com.*

On July 16, 2012, the Commission staff granted LNG Development Company, LLC and Oregon Pipeline Company (collectively referred as Oregon LNG) request to utilize the Pre-Filing Process and assigned Docket No. PF12–18 to staff activities involved with Oregon LNG's Bidirectional Project. Now, as of the filing of the application on June 7, 2013, the Pre-Filing Process for this project has ended. From this time forward, this proceeding will be conducted in Docket Nos. CP09–6–001 and CP09–7–001, as noted in the caption of this Notice.

Because the environmental review of Oregon LNG's Bidirectional Project must also include Northwest's connecting supply pipeline to the LNG terminal, the Commission cannot begin preparation of the Environmental Impact Statement (EIS) to comply with the National Environmental Policy Act of 1969, until Pacific Connector's application is filed. Within 90 days after the Commission issues a Notice of Application for the Northwest application, the Commission staff will issue a Notice of Schedule for Environmental Review that will indicate the anticipated date for the Commission's staff issuance of the final EIS analyzing both proposals. The issuance of a Notice of Schedule for Environmental Review will also 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 final EIS.

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, before the comment date of this notice, 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 14 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.

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. 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.

Comment Date: 5:00 p.m. Eastern Time on July 11, 2013.

Dated: June 20, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–15404 Filed 6–26–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP13–493–000]

Mississippi Hub, LLC; Notice of Application

Take notice that on June 10, 2013, Mississippi Hub, LLC (MS Hub) filed an application pursuant to Section 7 of the Natural Gas Act (NGA) and Parts 157 and 380 of the Commission's regulations, requesting authorization to increase the capacity of Cavern 3 located at MS Hub Storage Terminal in Simpson County, Mississippi. 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. For assistance, call (866) 208–3676 or TTY, (202) 502–8659.

MS Hub proposed to increase the previously authorized working gas capacity from 7.50 Bcf to 9.20 Bcf and the base gas capacity from 3.55 Bcf to 4.22 Bcf of Cavern 3. MS Hub has finished drilling the injection and withdrawal wells for Cavern 3 and is presently leaching the underground salt formation. The proposed increase in capacity will entail continued leaching of Cavern 3 to reach the proposed new capacity levels. The activity will be completed using the existing leaching facilities and no new or additional construction or operating equipment will be required. Also, the proposed increase in capacity will not result in any changes to the currently authorized injection and withdrawal rates of Cavern 3. Mississippi Hub states that with the previously authorized expansion of the storage facilities and the proposed increase in capacity of Cavern 3 will enable its customers to quickly inject and withdraw gas to meet the dynamic commercial requirements at minimal cost.

Any questions regarding this application should be directed to William D. Rapp, Director, FERC & Compliance; Mississippi Hub, LLC, 101 Ash Street, San Diego, CA 92101; by telephone at (619) 699–5050, or by email at *wrapp@semprausgp.com.*

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 14 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.

Motions to intervene, protests and comments may be filed electronically via the internet in lieu of paper; see, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date: 5:00 p.m. Eastern Time on July 12, 2013

Dated: June 21, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–15405 Filed 6–26–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

June 20, 2013.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–1164–001.
Applicants: Ohio Power Company, American Electric Power Service Corporation, PJM Interconnection, L.L.C.
Description: Ohio Power & AEP submit compliance filing per 5/23/2013 Order in ER13–1164–000 to be effective 8/8/2012.
Filed Date: 6/20/13..
Accession Number: 20130620–5119.
Comments Due: 5 p.m. ET 7/11/13.

Docket Numbers: ER13–1731–000.
Applicants: Southern California Edison Company.
Description: Notices of Cancellation with Photon Solar LLC to be effective 5/8/2013.
Filed Date: 6/20/13.
Accession Number: 20130620–5001.
Comments Due: 5 p.m. ET 7/11/13.

Docket Numbers: ER13–1732–000.
Applicants: PJM Interconnection, L.L.C.
Description: Notice of Cancellation of SA No. 3241.in Docket No. ER12–1200–000 to be effective 5/24/2013.
Filed Date: 6/20/13.
Accession Number: 20130620–5081.
Comments Due: 5 p.m. ET 7/11/13.

Docket Numbers: ER13–1733–000.
Applicants: New England Power Pool Participants Committee, ISO New England Inc.
Description: FRM Incentives to be effective 10/1/2013.
Filed Date: 6/20/13.
Accession Number: 20130620–5092.
Comments Due: 5 p.m. ET 7/11/13.

Docket Numbers: ER13–1734–000.
Applicants: Plainfield Renewable Energy, LLC.
Description: Plainfield Renewable Energy Baseline MBR Tariff to be effective 7/1/2013.
Filed Date: 6/20/13.
Accession Number: 20130620–5094.
Comments Due: 5 p.m. ET 7/11/13.

Docket Numbers: ER13–1735–000.
Applicants: Southern California Edison Company.
Description: Revised Added Facilities Rate for Victor Mesa Linda B LLC to be effective 5/8/2013.
Filed Date: 6/20/13.
Accession Number: 20130620–5095.
Comments Due: 5 p.m. ET 7/11/13.

Docket Numbers: ER13–1736–000.
Applicants: New England Power Pool Participants Committee, ISO New England Inc.
Description: Rev. to MR1 to Est. a Res. Constraint Pen. Fac Repl. Res. Requirement to be effective 10/1/2013.
Filed Date: 6/20/13.
Accession Number: 20130620–5108.
Comments Due: 5 p.m. ET 7/11/13.

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: June 20, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–15389 Filed 6–26–13; 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 rate filings:

Docket Numbers: ER11–4055–002; ER12–1566–002; ER12–1470–002; ER10–2977–002; ER11–3987–003; ER10–1290–003; ER10–2814–002; ER10–3026–002.
Applicants: Copper Mountain Solar 1, LLC, Copper Mountain Solar 2, LLC, Energia Sierra Juarez U.S., LLC, Mesquite Power, LLC, Mesquite Solar 1, LLC, San Diego Gas & Electric Company, Sempra Generation, Termoelectrica U.S. LLC.
Description: Second Supplement to December 31, 2012 Triennial Updated Market Power Analysis for the Southwest Region of Copper Mountain Solar 1, LLC, *et al.*
Filed Date: 6/19/13.
Accession Number: 20130619–5173.
Comments Due: 5 p.m. ET 7/10/13.

Docket Numbers: ER13–1729–000.
Applicants: Puget Sound Energy, Inc.
Description: OATT Order No. 1000 Compliance Filing 06–19–13 to be effective 12/31/9998.
Filed Date: 6/19/13.
Accession Number: 20130619–5143.
Comments Due: 5 p.m. ET 8/5/13.

Docket Numbers: ER13–1730–000.
Applicants: Avista Corporation.
Description: Avista Corp OATT Order 1000 Compliance Filing to be effective 12/31/9998.
Filed Date: 6/19/13.
Accession Number: 20130619–5144.
Comments Due: 5 p.m. ET 8/5/13.

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: June 20, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–15388 Filed 6–26–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–1188–010.
Applicants: Pacific Gas and Electric Company.
Description: Pacific Gas and Electric Company. submits Wholesale Distribution Tariff Rate Case 2013 (WDT2) Compliance Filing to be effective 11/1/2013.
Filed Date: 6/17/13.
Accession Number: 20130617–5066.
Comments Due: 5 p.m. ET 7/8/13.

Docket Numbers: ER13–1188–011.
Applicants: Pacific Gas and Electric Company.

Description: Pacific Gas and Electric Company. submits Wholesale Distribution Tariff Rate Case 2013 (WDT2) Compliance Filing, CCSF to be effective 11/1/2013.
Filed Date: 6/17/13.
Accession Number: 20130617–5079.
Comments Due: 5 p.m. ET 7/8/13.
Docket Numbers: ER13–1188–012.
Applicants: Pacific Gas and Electric Company.
Description: Pacific Gas and Electric Company. submits Wholesale Distribution Tariff Rate Case 2013 (WDT2) Compliance Filing, HMU to be effective 11/1/2013.
Filed Date: 6/17/13.
Accession Number: 20130617–5091.
Comments Due: 5 p.m. ET 7/8/13.
Docket Numbers: ER13–1188–013.
Applicants: Pacific Gas and Electric Company.
Description: Pacific Gas and Electric Company. submits Wholesale Distribution Tariff Rate Case 2013 (WDT2) Compliance Filing, LID to be effective 11/1/2013.
Filed Date: 6/17/13.
Accession Number: 20130617–5096.
Comments Due: 5 p.m. ET 7/8/13.
Docket Numbers: ER13–1700–000.
Applicants: KASS Commodities.
Description: KASS Commodities submits KASS Commodities MBR Filing to be effective 7/8/2013.
Filed Date: 6/17/13.
Accession Number: 20130617–5067.
Comments Due: 5 p.m. ET 7/8/13.
Docket Numbers: ER13–1701–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, L.L.C. submits Original Service Agreement No. 3577—Queue Position Y1–086 to be effective 5/16/2013.
Filed Date: 6/17/13.
Accession Number: 20130617–5071.
Comments Due: 5 p.m. ET 7/8/13.
Docket Numbers: ER13–1702–000.
Applicants: Indigo Generation LLC.
Description: Indigo Generation LLC submits Market-Based Rate Tariff Revision to be effective 6/18/2013.
Filed Date: 6/17/13.
Accession Number: 20130617–5072.
Comments Due: 5 p.m. ET 7/8/13.
Docket Numbers: ER13–1703–000.
Applicants: Larkspur Energy LLC.
Description: Larkspur Energy LLC submits Market-Based Rate Tariff Revision to be effective 6/18/2013.
Filed Date: 6/17/13.
Accession Number: 20130617–5073.
Comments Due: 5 p.m. ET 7/8/13.
Docket Numbers: ER13–1704–000.
Applicants: Wildflower Energy LP.
Description: Wildflower Energy LP submits Market-Based Rate Tariff Revision to be effective 6/18/2013.
Filed Date: 6/17/13.
Accession Number: 20130617–5074.
Comments Due: 5 p.m. ET 7/8/13.
Docket Numbers: ER13–1705–000.
Applicants: Mariposa Energy, LLC.
Description: Mariposa Energy, LLC submits Market-Based Rate Tariff Revision to be effective 6/18/2013.
Filed Date: 6/17/13.
Accession Number: 20130617–5075.
Comments Due: 5 p.m. ET 7/8/13.
Docket Numbers: ER13–1706–000.
Applicants: Western Reserve Energy Services, LLC.
Description: Western Reserve Energy Services, LLC submits tariff filing per 35.13(a)(2)(iii: MBR Tariff to be effective 6/20/2013.
Filed Date: 6/17/13.
Accession Number: 20130617–5101.
Comments Due: 5 p.m. ET 7/8/13.

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: June 17, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–15394 Filed 6–26–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1840–002.
Applicants: Blythe Energy Inc.
Description: Blythe Energy Inc. MBR Tariff to be effective 5/18/2013.
Filed Date: 6/14/13.
Accession Number: 20130614–5001.
Comments Due: 5 p.m. ET 7/5/13.
Docket Numbers: ER13–1380–002.
Applicants: New York Independent System Operator, Inc.
Description: NYISO Amendment to its June 12 NCZ Deficiency Letter Response to be effective 7/1/2013.
Filed Date: 6/14/13.
Accession Number: 20130614–5087.
Comments Due: 5 p.m. ET 6/21/13.
Docket Numbers: ER13–1504–001.
Applicants: SWG Arapahoe, LLC.
Description: Amendment to Application for Market-Based Rate Authority to be effective 6/10/2013.
Filed Date: 6/14/13.
Accession Number: 20130614–5123.
Comments Due: 5 p.m. ET 6/28/13.
Docket Numbers: ER13–1685–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Company LGIA with KM Acquisitions LLC to be effective 5/15/2013.
Filed Date: 6/14/13.
Accession Number: 20130614–5002.
Comments Due: 5 p.m. ET 7/5/13.
Docket Numbers: ER13–1686–000.
Applicants: Niagara Mohawk Power Corporation, New York Independent System Operator, Inc.
Description: SGIA No. 2006 between National Grid and Synergy Biogas to be effective 8/14/2013.
Filed Date: 6/14/13.
Accession Number: 20130614–5059.
Comments Due: 5 p.m. ET 7/5/13.
Docket Numbers: ER13–1687–000.
Applicants: Arizona Public Service Company.
Description: Notice of Cancellation of Service Agreement No. 129 with Salt River Project Agricultural Improvement and Power District Merchant Group.
Filed Date: 6/14/13.
Accession Number: 20130614–5065.
Comments Due: 5 p.m. ET 7/5/13.
Docket Numbers: ER13–1688–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Midcontinent Independent System Operator, Inc. 06–14–2013 SA 2524 ITC–DTE Electric GIA (J235) to be effective 6/15/2013.
Filed Date: 6/14/13.
Accession Number: 20130614–5066.
Comments Due: 5 p.m. ET 7/5/13.
Docket Numbers: ER13–1689–000.
Applicants: AEP Generation Resources Inc.
Description: AEP Generation Resources Inc. Reactive Supply and Voltage Control from Generation Sources Service to be effective 1/1/2014.
Filed Date: 6/14/13.
Accession Number: 20130614–5093.
Comments Due: 5 p.m. ET 7/5/13.
Docket Numbers: ER13–1690–000.

Applicants: Indiana Michigan Power Company.

Description: Indiana Michigan Power Company Reactive Supply and Voltage Control from Generation Sources Service Concurrence to be effective 1/1/2014.

Filed Date: 6/14/13.

Accession Number: 20130614–5099.

Comments Due: 5 p.m. ET 7/5/13.

Docket Numbers: ER13–1691–000.

Applicants: Kentucky Power Company.

Description: Kentucky Power Company Reactive Supply and Voltage Control From Generation Sources Service Concurrence to be effective 1/1/2014.

Filed Date: 6/14/13.

Accession Number: 20130614–5101.

Comments Due: 5 p.m. ET 7/5/13.

Docket Numbers: ER13–1692–000.

Applicants: Florida Power & Light Company.

Description: FPL and Miami-Dade County Service Agreement No. 124 to be effective 8/13/2013.

Filed Date: 6/14/13.

Accession Number: 20130614–5106.

Comments Due: 5 p.m. ET 7/5/13.

Docket Numbers: ER13–1693–000.

Applicants: Appalachian Power Company.

Description: Appalachian Power Company Reactive Supply and Voltage Control from Generation Sources Service to be effective 1/1/2014.

Filed Date: 6/14/13.

Accession Number: 20130614–5107.

Comments Due: 5 p.m. ET 7/5/13.

Docket Numbers: ER13–1694–000.

Applicants: Florida Power & Light Company.

Description: FPL and PBSWA Original Service Agreement No. 313 to be effective 6/15/2013.

Filed Date: 6/14/13.

Accession Number: 20130614–5108.

Comments Due: 5 p.m. ET 7/5/13.

Docket Numbers: ER13–1695–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Midcontinent Independent System Operator, Inc. 06–14–2013 Escanaba Amended Schedule 43 v3.0.0 to be effective 6/15/2013.

Filed Date: 06/14/2013.

Accession Number: 20130614–5148.

Comment Date: 5 p.m. ET 7/5/13.

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: June 14, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–15397 Filed 6–26–13; 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 rate filings:

Docket Numbers: ER10–1246–002; ER10–1982–003; ER10–1253–002; ER10–1252–002; ER13–764–001; ER12–2498–002; ER12–2499–002.

Applicants: Consolidated Edison Energy, Inc.

Description: Consolidated Edison Energy, Inc., *et al.* Supplement to May 24, 2013 Notice of non-material change status.

Filed Date: 6/11/13.

Accession Number: 20130611–5146.

Comments Due: 5 p.m. ET 7/2/13.

Docket Numbers: ER10–2374–001; ER10–1533–002.

Applicants: Puget Sound Energy, Inc., Macquarie Energy LLC.

Description: Supplement to December 17, 2012 Notice of Non-Material Change in Status of Puget Sound Energy, Inc. *et al.*

Filed Date: 6/12/13.

Accession Number: 20130612–5126.

Comments Due: 5 p.m. ET 7/3/13.

Docket Numbers: ER11–3643–005.

Applicants: PacifiCorp.

Description: PacifiCorp submits tariff filing per 35: OATT Revised Sections per Transmission Rate Case to be effective 12/25/2011.

Filed Date: 6/13/13.

Accession Number: 20130613–5077.

Comments Due: 5 p.m. ET 7/5/13.

Docket Numbers: ER13–1199–001.

Applicants: New York Independent System Operator, Inc.

Description: NYISO compliance filing notice of delay effective date to be effective 6/18/2013.

Filed Date: 6/12/13.

Accession Number: 20130612–5113.

Comments Due: 5 p.m. ET 7/3/13.

Docket Numbers: ER13–1380–001.

Applicants: New York Independent System Operator, Inc.

Description: NYISO Response to NCZ Deficiency Letter to be effective 1/27/2014.

Filed Date: 6/12/13.

Accession Number: 20130612–5120.

Comments Due: 5 p.m. ET 6/19/13.

Docket Numbers: ER13–1552–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Name Change Withdrawal Filing #3 to be effective N/A.

Filed Date: 6/12/13.

Accession Number: 20130612–5041.

Comments Due: 5 p.m. ET 7/3/13.

Docket Numbers: ER13–1679–000.

Applicants: San Diego Gas & Electric Company.

Description: LGIA Amendment to be effective 6/13/2013.

Filed Date: 6/12/13.

Accession Number: 20130612–5084.

Comments Due: 5 p.m. ET 7/3/13.

Docket Numbers: ER13–1680–000.

Applicants: EDF Industrial Power Services (OH), LLC.

Description: EDF Industrial OH Rate Schedule to be effective 6/13/2013.

Filed Date: 6/12/13.

Accession Number: 20130612–5086.

Comments Due: 5 p.m. ET 7/3/13.

Docket Numbers: ER13–1681–000.

Applicants: PJM Interconnection, L.L.C.

Description: Ministerial Clean-Up Filing-Section 7.4 of the OATT Att K and OA Schedule 1 to be effective 6/1/2013.

Filed Date: 6/12/13.

Accession Number: 20130612–5104.

Comments Due: 5 p.m. ET 7/3/13.

Docket Numbers: ER13–1682–000.

Applicants: Florida Power & Light Company.

Description: Rate Schedule No. 325 SR 70 Substation IA between FPL, Seminole and Peace River to be effective 8/11/2013.

Filed Date: 6/12/13.

Accession Number: 20130612–5117.

Comments Due: 5 p.m. ET 7/3/13.

Docket Numbers: ER13–1683–000.

Applicants: New York Independent System Operator, Inc.

Description: New York Independent System Operator, Inc. confidential information requests and CFTC exemptions to be effective 9/15/2013.

Filed Date: 6/13/13.
Accession Number: 20130613–5085.
Comments Due: 5 p.m. ET 7/5/13.
Docket Numbers: ER13–1684–000.
Applicants: New York Independent System Operator, Inc.
Description: New York Independent System Operator, Inc.: NYISO/PJM joint 205 filing on JOA M2M provision to be effective 8/14/2013.
Filed Date: 6/13/13.
Accession Number: 20130613–5086.
Comments Due: 5 p.m. ET 7/5/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

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Dated: June 13, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–15387 Filed 6–26–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC13–120–000.
Applicants: ITC Midwest LLC.
Description: Application for Approval of Acquisition of Transmission Assets Pursuant to Section 203 of the Federal Power Act of ITC Midwest LLC.
Filed Date: 6/17/13.
Accession Number: 20130617–5184.
Comments Due: 5 p.m. ET 7/8/13.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1285–004.
Applicants: Craven County Wood Energy Limited Partnership.
Description: Notice of Non-Material Change in Status of Craven County Wood Energy Limited Partnership.
Filed Date: 6/17/13.
Accession Number: 20130617–5186.
Comments Due: 5 p.m. ET 7/8/13.
Docket Numbers: ER13–1718–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Midcontinent Independent System Operator, Inc. submits 2013–06–17 Name Change Filing to be effective 6/1/2013.
Filed Date: 6/18/13.
Accession Number: 20130618–5000.
Comments Due: 5 p.m. ET 7/9/13.
Docket Numbers: ER13–1719–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc. submits 2236R2 Golden Spread Electric Cooperative, Inc. NITSA and NOA to be effective 7/1/2011.
Filed Date: 6/18/13.
Accession Number: 20130618–5035.
Comments Due: 5 p.m. ET 7/9/13.
Docket Numbers: ER13–1720–000.
Applicants: Gray County Wind Energy, LLC.
Description: Gray County Wind Energy, LLC submits Gray County Wind Energy, LLC Amendment to MBR Tariff to be effective 7/23/2010.
Filed Date: 6/18/13.
Accession Number: 20130618–5037.
Comments Due: 5 p.m. ET 7/9/13.
Docket Numbers: ER13–1721–000.
Applicants: High Majestic Wind Energy Center, LLC.
Description: High Majestic Wind Energy Center, LLC submits High Majestic Wind Energy Center, LLC Amendment to MBR Tariff to be effective 7/26/2010.
Filed Date: 6/18/13.
Accession Number: 20130618–5038.
Comments Due: 5 p.m. ET 7/9/13.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES13–30–000.
Applicants: MidAmerican Energy Company.
Description: Application for an Order Pursuant to Section 204 of the Federal Power Act for Authorization to Issue and Sell Debt Securities of MidAmerican Energy Company.
Filed Date: 6/17/13.
Accession Number: 20130617–5183.
Comments Due: 5 p.m. ET 7/8/13.
Docket Numbers: ES13–31–000.
Applicants: Golden Spread Electric Cooperative, Inc.
Description: Application of Golden Spread Electric Cooperative, Inc. for Authorization to Issue Securities Pursuant to Section 204 of the Federal Power Act.
Filed Date: 6/17/13.
Accession Number: 20130617–5188.
Comments Due: 5 p.m. ET 7/8/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

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Dated: June 18, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–15390 Filed 6–26–13; 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: EC13–99–000.
Applicants: Wabash Valley Power Association, Inc.
Description: Amendment to April 29, 2013 Joint Section 203 Application of Wabash Valley Power Association, Inc., *et al.*
Filed Date: 6/17/13.
Accession Number: 20130617–5061.
Comments Due: 5 p.m. ET 6/27/13.
Docket Numbers: EC13–119–000.
Applicants: Longview Fibre Paper and Packaging, Inc.
Description: Application under Section 203 of the Federal Power Act submitted by Longview Fibre Paper and Packaging, Inc.
Filed Date: 6/14/13.
Accession Number: 20130614–5190.
Comments Due: 5 p.m. ET 7/5/13.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2719–014; ER10–2718–014; ER10–2633–014;

ER10–2570–014; ER10–2717–014; ER10–3140–014; ER13–55–004.

Applicants: East Coast Power Linden Holding, L.L.C., Cogen Technologies Linden Venture, L.P., Birchwood Power Partners, L.P., Shady Hills Power Company, L.L.C., EFS Parlin Holdings, LLC, Inland Empire Energy Center, LLC, Homer City Generation, L.P.

Description: Notice of Non-Material Change in Status of the GE Companies.

Filed Date: 6/14/13.

Accession Number: 20130614–5194.

Comments Due: 5 p.m. ET 7/5/13.

Docket Numbers: ER13–1403–001.

Applicants: Dominion Bridgeport Fuel Cell, LLC.

Description: Dominion Bridgeport Fuel Cell, LLC submits tariff filing per 35.17(b): Amended Baseline and Cert. of Concurrence as .rtf to be effective 7/7/2013.

Filed Date: 6/14/13.

Accession Number: 20130614–5164.

Comments Due: 5 p.m. ET 6/24/13.

Docket Numbers: ER13–1696–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Midcontinent Independent System Operator, Inc. submits 06–14–2013 SA 2523 ITC-Pheasant Run GIA (J075) to be effective 6/15/2013.

Filed Date: 6/14/13.

Accession Number: 20130614–5150.

Comments Due: 5 p.m. ET 7/5/13.

Docket Numbers: ER13–1697–000.

Applicants: Kiwi Energy Inc.

Description: Kiwi Energy Inc. submits MBR Application to be effective 6/15/2013.

Filed Date: 6/14/13.

Accession Number: 20130614–5152.

Comments Due: 5 p.m. ET 7/5/13.

Docket Numbers: ER13–1698–000.

Applicants: Kiwi Energy NY LLC.

Description: Kiwi Energy NY LLC submits MBR Application to be effective 6/15/2013.

Filed Date: 6/14/13.

Accession Number: 20130614–5153.

Comments Due: 5 p.m. ET 7/5/13.

Docket Numbers: ER13–1699–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Midcontinent Independent System Operator, Inc. submits 06–14–2013 SA 6500 Escanba Amended SSR Agr to be effective 6/15/2013.

Filed Date: 6/14/13.

Accession Number: 20130614–5154.

Comments Due: 5 p.m. ET 7/5/13.

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.

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Dated: June 17, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–15393 Filed 6–26–13; 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: EC13–118–000.

Applicants: Fairless Energy, LLC.

Description: Application for Authorization for Acquisition of Jurisdictional Facilities and Request for Expedited Action of Fairless Energy, LLC.

Filed Date: 6/13/13.

Accession Number: 20130613–5140.

Comments Due: 5 p.m. ET 7/5/13.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2238–006; ER10–2239–006; ER10–2237–005; ER12–896–002.

Applicants: Indigo Generation LLC, Larkspur Energy LLC, Wildflower Energy LP, Mariposa Energy, LLC.

Description: Triennial Market Power Analysis for the Southwest Region of the DGC Southwest Sellers.

Filed Date: 6/13/13.

Accession Number: 20130613–5124.

Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: ER10–3140–013.

Applicants: Inland Empire Energy Center, LLC.

Description: Triennial Market Power Analysis of Inland Empire Energy Center, LLC.

Filed Date: 6/13/13.

Accession Number: 20130613–5122.

Comments Due: 5 p.m. ET 8/12/13.

Docket Numbers: ER12–1875–002.

Applicants: AltaGas Renewable Energy Colorado LLC.

Description: Notice of Change in Status of AltaGas Renewable Energy Colorado LLC.

Filed Date: 6/13/13.

Accession Number: 20130613–5135.

Comments Due: 5 p.m. ET 7/5/13.

Docket Numbers: ER13–1485–001.

Applicants: Wheelabrator Baltimore, L.P.

Description: Wheelabrator Baltimore, L.P. Amendment MBR Tariff to be effective 7/1/2013.

Filed Date: 6/13/13.

Accession Number: 20130613–5120.

Comments Due: 5 p.m. ET 7/5/13.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES13–29–000.

Applicants: California Independent System Operator Corporation.

Description: California Independent System Operator Corporation's Application Under Section 204 of the Federal Power Act for an Order Authorizing the Issuance of Securities.

Filed Date: 6/13/13.

Accession Number: 20130613–5123.

Comments Due: 5 p.m. ET 7/5/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

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Dated: June 14, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–15396 Filed 6–26–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–360–003.
Applicants: New York Independent System Operator, Inc.
Description: New York Independent System Operator, Inc. submits NYISO compliance filing in response to a June 6, 2013 Order re: NCZ to be effective 1/27/2014.
Filed Date: 6/19/13.
Accession Number: 20130619–5127.
Comments Due: 5 p.m. ET 6/26/13.
Docket Numbers: ER13–1725–000.
Applicants: Duke Energy Carolinas, LLC.
Description: Highlands PPA—RS 337 Revision (2013) to be effective 7/2/2012.
Filed Date: 6/19/13.
Accession Number: 20130619–5015.
Comments Due: 5 p.m. ET 7/10/13.
Docket Numbers: ER13–1726–000.
Applicants: PJM Interconnection, L.L.C.
Description: Original Service Agreement No. 3580; Queue No. Y1–071 to be effective 6/12/2013.
Filed Date: 6/19/13.
Accession Number: 20130619–5074.
Comments Due: 5 p.m. ET 7/10/13.
Docket Numbers: ER13–1727–000.
Applicants: Duke Energy Carolinas, LLC.
Description: Lockhart PPA—RS 332 to be effective 7/2/2012.
Filed Date: 6/19/13.
Accession Number: 20130619–5099.
Comments Due: 5 p.m. ET 7/10/13.
Docket Numbers: ER13–1728–000.
Applicants: Massachusetts Electric Company.
Description: 2013 Rate Update Filing for Massachusetts Electric Borderline Sales Agreement to be effective 11/1/2012.
Filed Date: 6/19/13.
Accession Number: 20130619–5117.
Comments Due: 5 p.m. ET 7/10/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

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Dated: June 19, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–15392 Filed 6–26–13; 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 rate filings:

Docket Numbers: ER12–1071–001.
Applicants: Entergy Arkansas, Inc.
Description: Entergy Arkansas, Inc. submits Att C, D, E Compliance Filing to be effective 6/17/2013.
Filed Date: 6/17/13.
Accession Number: 20130617–5122.
Comments Due: 5 p.m. ET 7/8/13.
Docket Numbers: ER13–1121–001.
Applicants: Peetz Logan Interconnect, LLC.
Description: Peetz Logan Interconnect, LLC submits Peetz Logan Interconnect, LLC Compliance Filing to be effective 11/1/2011.
Filed Date: 6/17/13.
Accession Number: 20130617–5127.
Comments Due: 5 p.m. ET 7/8/13.
Docket Numbers: ER13–1188–014.
Applicants: Pacific Gas and Electric Company.
Description: Pacific Gas and Electric Company submits Wholesale Distribution Tariff Rate Case 2013 (WDT2) Compliance Filing, MRID to be effective 11/1/2013.
Filed Date: 6/17/13.
Accession Number: 20130617–5112.
Comments Due: 5 p.m. ET 7/8/13.
Docket Numbers: ER13–1188–015.
Applicants: Pacific Gas and Electric Company.
Description: Pacific Gas and Electric Company submits Wholesale Distribution Tariff Rate Case 2013 (WDT2) Compliance Filing, PWRPA 30 to be effective 11/1/2013.
Filed Date: 6/17/13.
Accession Number: 20130617–5118.
Comments Due: 5 p.m. ET 7/8/13.
Docket Numbers: ER13–1188–016.
Applicants: Pacific Gas and Electric Company.
Description: Pacific Gas and Electric Company submits Wholesale Distribution Tariff Rate Case 2013 (WDT2) Compliance Filing, PWRPA 56 to be effective 11/1/2013.
Filed Date: 6/17/13.
Accession Number: 20130617–5120.
Comments Due: 5 p.m. ET 7/8/13.
Docket Numbers: ER13–1188–017.
Applicants: Pacific Gas and Electric Company.
Description: Pacific Gas and Electric Company Wholesale Distribution Tariff Rate Case 2013 (WDT2) Compliance Filing, S Cove to be effective 11/1/2013.
Filed Date: 6/17/13.
Accession Number: 20130617–5121.
Comments Due: 5 p.m. ET 7/8/13.
Docket Numbers: ER13–1188–018.
Applicants: Pacific Gas and Electric Company.
Description: Pacific Gas and Electric Company submits Wholesale Distribution Tariff Rate Case 2013 (WDT2) Compliance Filing, Western to be effective 11/1/2013.
Filed Date: 6/17/13.
Accession Number: 20130617–5123.
Comments Due: 5 p.m. ET 7/8/13.
Docket Numbers: ER13–1188–019.
Applicants: Pacific Gas and Electric Company.
Description: Pacific Gas and Electric Company submits Wholesale Distribution Tariff Rate Case 2013 (WDT2) Compliance Filing, WPA to be effective 11/1/2013.
Filed Date: 6/17/13.
Accession Number: 20130617–5126.
Comments Due: 5 p.m. ET 7/8/13.
Docket Numbers: ER13–1707–000.
Applicants: Consolidated Edison Company of New York, Inc.
Description: Consolidated Edison Company of New York, Inc. submits tariff filing per 35.13(a)(2)(iii: Amendment to PSL 18a Surcharge to be effective 5/20/2013.
Filed Date: 6/17/13.
Accession Number: 20130617–5102.
Comments Due: 5 p.m. ET 7/8/13.
Docket Numbers: ER13–1708–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc. submits 2551R1 Kansas Municipal Energy Agency NITSA and NOA to be effective 6/1/2013.
Filed Date: 6/17/13.
Accession Number: 20130617–5106.
Comments Due: 5 p.m. ET 7/8/13.
Docket Numbers: ER13–1709–000.
Applicants: Blackwell Wind, LLC.
Description: Blackwell Wind, LLC submits Blackwell Wind, LLC

Amendment to MBR Tariff to be effective 2/5/2012.

Filed Date: 6/17/13.

Accession Number: 20130617–5128.

Comments Due: 5 p.m. ET 7/8/13.

Docket Numbers: ER13–1710–000.

Applicants: Elk City Wind, LLC.

Description: Elk City Wind, LLC submits Elk City Wind, LLC Amendment to MBR Tariff to be effective 7/21/2010.

Filed Date: 6/17/13.

Accession Number: 20130617–5129.

Comments Due: 5 p.m. ET 7/8/13.

Docket Numbers: ER13–1711–000.

Applicants: Elk City II Wind, LLC.

Description: Elk City II Wind, LLC submits Elk City II Wind, LLC Amendment to MBR Tariff to be effective 12/15/2010.

Filed Date: 6/17/13.

Accession Number: 20130617–5130.

Comments Due: 5 p.m. ET 7/8/13.

Docket Numbers: ER13–1712–000.

Applicants: FPL Energy Cowboy Wind, LLC.

Description: FPL Energy Cowboy Wind, LLC submits FPL Energy Cowboy Wind, LLC Amendment to MBR Tariff to be effective 7/22/2010.

Filed Date: 6/17/13.

Accession Number: 20130617–5131.

Comments Due: 5 p.m. ET 7/8/13.

Docket Numbers: ER13–1713–000.

Applicants: FPL Energy Oklahoma Wind, LLC.

Description: FPL Energy Oklahoma Wind, LLC submits FPL Energy Oklahoma Wind, LLC to be effective 7/23/2010.

Filed Date: 6/17/13.

Accession Number: 20130617–5132.

Comments Due: 5 p.m. ET 7/8/13.

Docket Numbers: ER13–1714–000.

Applicants: FPL Energy Sooner Wind, LLC.

Description: FPL Energy Sooner Wind, LLC submits FPL Energy Sooner Wind, LLC Amendment to MBR Tariff to be effective 7/23/2010.

Filed Date: 6/17/13.

Accession Number: 20130617–5133.

Comments Due: 5 p.m. ET 7/8/13.

Docket Numbers: ER13–1715–000.

Applicants: High Majestic Wind II, LLC.

Description: High Majestic Wind II, LLC submits High Majestic Wind II, LLC Amendment to MBR Tariff to be effective 5/7/2012.

Filed Date: 6/17/13.

Accession Number: 20130617–5134.

Comments Due: 5 p.m. ET 7/8/13.

Docket Numbers: ER13–1716–000.

Applicants: Minco Wind, LLC.

Description: Minco Wind, LLC submits Minco Wind, LLC Amendment to MBR Tariff to be effective 11/1/2010.

Filed Date: 6/17/13.

Accession Number: 20130617–5135.

Comments Due: 5 p.m. ET 7/8/13.

Docket Numbers: ER13–1717–000.

Applicants: Minco Wind II, LLC.

Description: Minco Wind II, LLC submits Minco Wind II, LLC Amendment to MBR Tariff to be effective 9/30/2011.

Filed Date: 6/17/13.

Accession Number: 20130617–5136.

Comments Due: 5 p.m. ET 7/8/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

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Dated: June 18, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–15395 Filed 6–26–13; 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 rate filings:

Docket Numbers: ER13–1665–001.

Applicants: Novo BioPower, LLC.

Description: Amendment to Novo Biopower, LLC Market-Based Rate Tariff to be effective 7/1/2013.

Filed Date: 6/18/13.

Accession Number: 20130618–5124.

Comments Due: 5 p.m. ET 7/2/13.

Docket Numbers: ER13–1722–000.

Applicants: Duke Energy Carolinas, LLC.

Description: Due West PPA—RS 329 to be effective 7/2/2012.

Filed Date: 6/18/13.

Accession Number: 20130618–5089.

Comments Due: 5 p.m. ET 7/9/13.

Docket Numbers: ER13–1723–000.

Applicants: Duke Energy Carolinas, LLC.

Description: Prosperity PPA—RS 333 to be effective 7/2/2012.

Filed Date: 6/18/13.

Accession Number: 20130618–5093.

Comments Due: 5 p.m. ET 7/9/13.

Docket Numbers: ER13–1724–000.

Applicants: Nevada Power Company.

Description: Rate Schedule No. 133 Transmission Service Agreement—ORNI 47 LLC to be effective 1/1/2014.

Filed Date: 6/18/13.

Accession Number: 20130618–5132.

Comments Due: 5 p.m. ET 7/9/13.

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: June 19, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–15391 Filed 6–26–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13124–003]

Copper Valley Electric Association, Inc.; Notice of Availability of Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission or FERC's) regulations, 18 Code of Federal Regulations (CFR) Part 380 (Order No. 486, 52 **Federal Register** 47897), the Office of Energy Projects has reviewed Copper Valley Electric Association, Inc.'s application for an original license to construct the Allison Creek Hydroelectric Project (FERC Project No. 13124–003). The proposed 6.5-megawatt project would be located on Allison

Creek near Valdez, Alaska. The project would not occupy any federal lands.

Staff prepared a final environmental assessment (EA) which analyzes the potential environmental effects of licensing the project, and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the final EA is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *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 Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, 202–502–8659.

You may also register online at *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, contact FERC Online Support. For further information, contact Kim Nguyen by telephone at 202–502–6105, or by email at *kim.nguyen@ferc.gov*.

Dated: June 21, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–15408 Filed 6–26–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP13–494–000]

Ryckman Creek Resources, LLC; Notice of Request Under Blanket Authorization

Take notice that on June 11, 2013, Ryckman Creek Resources, LLC (Ryckman), 3 Riverway, Suite 1110, Houston, TX 77056, filed in Docket No. CP13–494–000, an application pursuant to sections 157.205 and 157.213 of the Commission's Regulations under the Natural Gas Act (NGA) as amended, to re-enter and re-complete a former oil production well for use as a saltwater disposal well and construct approximately 860 feet of 6-inch diameter saltwater disposal line at its jurisdictional natural gas storage field in Uinta County, Wyoming, 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 James Ruth, General Counsel, Ryckman Creek Resources, LLC, 3 Riverway, Suite 1110, Houston, TX 77056, (713) 974–5600 or Stan Ragan, Director, Regulatory Compliance, Ryckman Creek Resources, LLC, 3 Riverway, Suite 1110, Houston, TX, 77056, (713) 750–9624.

Any person or the Commission's staff may, within 60 days after 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 and pursuant to Section 157.205 of the regulations under the NGA (18 CFR 157.205), 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 filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

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 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 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.

Dated: June 20, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–15406 Filed 6–26–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP13–496–000]

Questar Pipeline Company; Notice of Request Under Blanket Authorization

Take notice that on June 13, 2013, Questar Pipeline Company (Questar), 333 South State Street, P.O. Box 45360, Salt Lake City, Utah 84145–0360, filed in Docket No. CP13–496–000, a prior notice request pursuant to sections 157.205, 157.208, and 157.210 of the Commission's regulations under the Natural Gas Act (NGA). Questar seeks authorization to replace and upgrade a compressor engine at the existing Simon Compressor Station located in Sweetwater County, Wyoming. Questar proposes to perform these activities under its blanket certificate issued in Docket No. CP82–491–000 [20 FERC ¶ 62,580 (1982)], all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The filing may 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 L. Bradley Burton, General Manager, Federal Regulatory Affairs and FERC Compliance Officer, Questar Pipeline Company, 333 South State Street, P.O. Box 43560, Salt Lake City, Utah, 84145–0360, or by calling (801) 324–2459 (telephone) or (801) 324–5623 (fax), *brad.burton@questar.com*.

Any person or the Commission's Staff 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 and, pursuant to section

157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) 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. 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.

Dated: June 20, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–15407 Filed 6–26–13; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–RCRA–2013–0405, FRL–9829–1]

Agency Information Collection Activities; Proposed Collection; Comment Request; Information Requirements for Boilers and Industrial Furnaces

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is planning to submit an information collection request (ICR), Information Requirements for Boilers and Industrial Furnaces (EPA ICR No. 1361.16, OMB Control No. 2050–0073) 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 October 31, 2013. 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 August 26, 2013.

ADDRESSES: Submit your comments, referencing by Docket ID No. EPA–HQ–RCRA–2013–0405, online using *www.regulations.gov* (our preferred method), by email to *rcra-docket@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: Peggy Vyas, Office of Resource Conservation and Recovery (mail code 5303P), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 703–308–5477; fax number: 703–308–8433; email address: *vyas.peggy@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, EPA 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 regulates the burning of hazardous waste in boilers, incinerators, and industrial furnaces (BIFs) under 40 CFR parts 63, 264, 265, 266 and 270. This ICR describes the paperwork requirements that apply to the owners and operators of BIFs. This includes the requirements under the comparable/syngas fuel specification at 40 CFR 261.38; the general facility requirements at 40 CFR parts 264 and 265, subparts B thru H; the requirements applicable to BIF units at 40 CFR part 266; and the RCRA Part B permit application and modification requirements at 40 CFR part 270.

Form Numbers: None.

Respondents/affected entities: business or other for-profit.

Respondent's obligation to respond: mandatory (per 40 CFR 264, 265, and 270).

Estimated number of respondents: 86.

Frequency of response: on occasion.

Total estimated burden: 238,785 Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $43,088,240, which includes $16,029,240 annualized labor costs and $27,059,000 annualized capital or O&M costs.

Changes in Estimates: The burden hours are likely to stay substantially the same.

Dated: June 10, 2013.

Suzanne Rudzinski,

Director, Office of Resource Conservation and Recovery.

[FR Doc. 2013–15438 Filed 6–26–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OA–2012–0033; FRL–9828–7]

Additional Documents Available for Public Review Related to Willingness To Pay Survey for Chesapeake Bay Total Maximum Daily Load: Instrument, Pre-Test, and Implementation; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has made available for public review a revised Supporting Statement and additional documentation related to

its recent information collection request (ICR) submission to OMB entitled "Willingness to Pay Survey for Chesapeake Bay Total Maximum Daily Load: Instrument, Pre-test, and Implementation" (EPA ICR No. 2456.01, OMB Control No. 2010–NEW). The additional documents, now available in the associated docket, are: The Peer Review Report, the Focus Group and Cognitive Interview Report and the Description of Hydrological, Biochemical, and Ecosystem Models (Attachment 17 of the revised Supporting Statement). These documents may provide useful information to interested parties regarding the development and design of the survey instruments proposed for this project. Full transcripts of the focus groups and cognitive interviews were not prepared and are therefore not available. Public comments were previously requested on the ICR via the **Federal Register** on May 24, 2012 during a 60-day comment period, which was later extended for an additional 30 days. An additional 30-day comment period was initiated upon submission of the ICR to OMB for review and consideration. This notice allows for an additional 30 days of public comments on the ICR in light of the availability of the additional documentation.

DATES: Additional comments may be submitted on or before July 29, 2013.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OA–2012–0033, to (1) EPA online using *www.regulations.gov* (our preferred method); by email to *oei.docket@epa.gov;* by fax at (202) 566–9744; or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov*. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Dr. Nathalie Simon, National Center for Environmental Economics, Office of Policy, (1809T). Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–566–2347; fax number: 202–566–2363; email address: *simon.nathalie@epa.gov*.

SUPPLEMENTARY INFORMATION: The revised Supporting Statement, the Peer Review Report, the Focus Group and Cognitive Interview Report and the Description of Hydrological, Biochemical, and Ecosystem Models are available in the public docket for this ICR together with other supporting documents made available previously which explain in detail the information that the EPA will be collecting. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets*.

Abstract: The Clean Water Act (CWA) directs EPA to coordinate Federal and State efforts to improve water quality in the Chesapeake Bay. In 2009, Executive Order (E.O.) 13508 reemphasized this mandate, directing EPA to define the next generation of tools and actions to restore water quality in the Bay and describe the changes to be made to regulations, programs, and policies to implement these actions. The Chesapeake Bay watershed encompasses 64,000 square miles in parts of six states and the District of Columbia. It is the largest estuary in the United States and the third largest in the world. The Chesapeake Bay's unique set of ecological and cultural elements has motivated efforts to preserve and restore its condition for more than 25 years. Significant progress has been made over that period however, pollution budgets, called Total Maximum Daily Loads (TMDLs), are necessary to continue progress toward the goal of a healthy Bay. The watershed states of New York, Pennsylvania, Delaware, West Virginia, Virginia, and Maryland, as well as the District of Columbia, have developed Watershed Implementation Plans (WIPs) detailing the steps each will take to meet its obligations under the TMDL.

As part of the next phase of this effort, EPA is undertaking an assessment of the costs and benefits of meeting Total Maximum Daily Loads (TMDLs), of nitrogen, phosphorus, and sediment for the Chesapeake Bay. As an input to the TMDL benefits study, EPA's National Center for Environmental Economics (NCEE) is seeking approval to conduct a stated preference survey to collect data on households' use of Chesapeake Bay and its watershed, willingness to pay for a variety of water quality improvements likely to follow from pollution reduction programs, and demographic information. If approved, the survey would be administered by mail in two phases to a sample of 9,140 residents living in the Chesapeake Bay states, Chesapeake Bay watershed, and other eastern states within 100 miles of the Atlantic Ocean.

Benefits from meeting the TMDL for the Chesapeake Bay will accrue to those who live near the Bay or visit for recreation, those who live near or visit lakes and rivers in the watershed, and those who live further away and/or may never visit the Bay but have a general concern for the environment quality of the Bay. While benefits from the first two categories can be measured using hedonic property value, recreational demand, and other revealed preference approaches, only stated preference methods can capture nonuse benefits. This study will provide policy makers with additional information on the public's preferences for improvements to the Chesapeake Bay and lakes in the watershed. NCEE will use the survey responses to estimate willingness to pay for changes related to reductions in nitrogen, phosphorous, and sediment loadings to the Bay and lakes in the Chesapeake Bay watershed. The analysis relies on state of the art theoretical and statistical tools for non-market welfare analysis. The results of this study will inform the public and policy makers about the benefits of improvements to the Chesapeake Bay and lakes in the watershed. A non-response survey will also be administered to inform the interpretation and validation of survey responses. Participation in the survey will be voluntary and the identity of the respondents will be kept confidential to the extent provided by law.

Dated: June 20, 2013.

Shelley Levitt,

Acting Director, National Center for Environmental Economics.

[FR Doc. 2013–15439 Filed 6–26–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9828–4]

Public Water System Supervision Program Approval for the State of Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of tentative approval.

SUMMARY: Notice is hereby given that the State of Illinois is revising its approved public water system supervision program for the Ground Water Rule, the Arsenic Rule and the

new Public Water System Definition. EPA has determined that these revisions are no less stringent than the corresponding federal regulation. Therefore, EPA intends to approve these revisions to the State of Illinois's public water system supervision program, thereby giving Illinois EPA primary enforcement responsibility for these regulations. Illinois EPA's revised Ground Water Rule became effective on July 27, 2007 and the revised Arsenic Rule was adopted on February 21, 2002. The new Public Water System Definition was adopted by the State on December 1, 1999.

Any interested person may request a public hearing. A request for a public hearing must be submitted by July 29, 2013, to the Regional Administrator at the EPA Region 5 address shown below. The Regional Administrator may deny frivolous or insubstantial requests for a hearing. However, if a substantial request for a public hearing is made by July 29, 2013, EPA Region 5 will hold a public hearing, and a notice of such hearing will be given in the **Federal Register** and a newspaper of general circulation. If EPA Region 5 does not receive a timely and appropriate request for a hearing and the Regional Administrator does not elect to hold a hearing on her own motion, this determination shall become final and effective on July 29, 2013. Any request for a public hearing shall include the following information: the name, address, and telephone number of the individual, organization, or other entity requesting a hearing; a brief statement of the requesting person's interest in the Regional Administrator's determination and a brief statement of the information that the requesting person intends to submit at such hearing; and the signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for inspection at the following offices: Illinois Environmental Protection Agency, 1021 North Grand Avenue, Springfield, Illinois 62794–9276, and/or the U.S. Environmental Protection Agency, Region 5, Ground Water and Drinking Water Branch (WG–15J), 77 West Jackson Boulevard, Chicago, Illinois 60604, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Michele Palmer, EPA Region 5, Ground Water and Drinking Water Branch, at the address given above, by telephone, at (312) 353–3646, or at *palmer.michele@epa.gov*.

Authority: (Section 1413 of the Safe Drinking Water Act, as amended, 42 U.S.C. 300g–2 and 40 CFR part 142 of the National Primary Drinking Water Regulations).

Dated: June 13, 2013.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2013–15441 Filed 6–26–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Savings and Loan Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and the Board's Regulation LL (12 CFR part 238) to acquire shares of a savings and loan holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 12, 2013.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *Louisiana Bancorp, Inc. Employee Stock Ownership Plan, George Vernon Curry, Jr., and Lisa Rae Whittington, as trustees*, both of Metairie, Louisiana; to retain and acquire additional voting shares of Louisiana Bancorp, Inc., and thereby indirectly retain and acquire additional voting shares of Bank of New Orleans, both in Metairie, Louisiana.

Board of Governors of the Federal Reserve System, June 24, 2013.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2013–15429 Filed 6–26–13; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 22, 2013.

A. Federal Reserve Bank of Dallas (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Athens, Tx Bancshares, Inc.*, Athens, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank, Athens, Texas.

In connection with this application, the Jane Austin Chapman Limited Partnership, L.P., Frankston, Texas, will acquire at least 5 percent of the voting shares of Athens, Tx Bancshares, Inc., Athens, Texas.

In addition, JSA Family Limited Partnership, Jacksonville, Texas, will acquire at least 4 percent of the voting shares of Athens, Tx Bancshares, Inc., Athens, Texas.

Board of Governors of the Federal Reserve System, June 24, 2013.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2013–15430 Filed 6–26–13; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Scientific Information Request on Imaging Tests for the Staging of Colorectal Cancer

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Request for Scientific Information Submissions.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) is seeking scientific information submissions on imaging tests for the staging of colorectal cancer (e.g., Chest x-ray, computed tomography, multidetector computed tomography (MD–CT), CT colonography, magnetic resonance imaging (MRI), transabdominal ultrasound (TUS), endoscopic ultrasound (EUS), transrectal ultrasound (TRUS), positron emission tomography (PET), positron emission tomography combined with computed tomography (PET/CT fusion), or positron emission tomography combined with magnetic resonance imaging (PET/MRI fusion)) from medical device manufacturers. Scientific information is being solicited to inform our Comparative Effectiveness Review of Imaging Tests for the Staging of Colorectal Cancer, which is currently being conducted by one of the Evidence-based Practice Centers for the AHRQ Effective Health Care Program. Access to published and unpublished pertinent scientific information on these devices will improve the quality of this comparative effectiveness review. AHRQ is requesting this scientific information and conducting this comparative effectiveness review pursuant to Section 1013 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Public Law 108–173, and Section 902(a) of the Public Health Service Act, 42 U.S.C. 299a(a)

DATES: Submission Deadline on or before July 29, 2013.

ADDRESSES:

Online submissions: *http://effectivehealthcare.AHRQ.gov/index.cfm/submit-scientific-information-packets/*. Please select the study for which you are submitting information from the list to upload your documents.

Email submissions: *SIPS@EPC–SRC.ORG*.

Print submissions:

Mailing Address:

Portland VA Research Foundation, Scientific Resource Center, ATTN: Scientific Information Packet Coordinator, PO Box 69539, Portland, OR 97239.

Shipping Address (FedEx, UPS, etc.): Portland VA Research Foundation, Scientific Resource Center, ATTN: Scientific Information Packet Coordinator, 3710 SW U.S. Veterans Hospital Road, Mail Code: R&D 71, Portland, OR 97239.

FOR FURTHER INFORMATION CONTACT: Robin Paynter, Research Librarian, Telephone: 503–220–8262 ext. 58652 or Email: *SIPS@EPC–SRC.ORG*.

SUPPLEMENTARY INFORMATION: The Agency for Healthcare Research and Quality has commissioned one of the Effective Health Care (EHC) Program Evidence-based Practice Centers to complete a comparative effectiveness review of the evidence for Imaging Tests for the Staging of Colorectal Cancer.

The EHC Program is dedicated to identifying as many studies as possible that are relevant to the questions for each of its reviews. In order to do so, we are supplementing the usual manual and electronic database searches of the literature by systematically requesting information (e.g., details of studies conducted) from medical device industry stakeholders through public information requests, including via the **Federal Register** and direct postal and/or online solicitations. We are looking for studies that report on Imaging Tests for the Staging of Colorectal Cancer, including those that describe adverse events, as specified in the key questions detailed below. The entire research protocol, including the key questions, is also available online at: *http://www.effectivehealthcare.AHRQ.gov/search-for-GUIDES-reviews-and-reports/?PAGEACTION=displayproduct&productID=1510*.

This notice is a request for information about the following:

- A list of all completed studies your company has sponsored for this indication, and if the results are available on *ClinicalTrials.gov* along with the CT.gov trial number.
- For completed studies that do not have results on CT.gov, a summary that includes the following elements: study number, study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, primary and secondary outcomes, baseline characteristics, number of patients screened/eligible/enrolled/lost to follow-up/withdrawn/analyzed, and effectiveness/efficacy and safety results.
- In addition, ongoing studies your company has sponsored for this indication. In the list, please provide the CT.gov trial number or, if the trial is not registered, the protocol for the study including a study number, the study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, and primary and secondary outcomes.

Your contribution is very beneficial to this program. The contents of all submissions will be available to the public upon request. Materials submitted must be publicly available or materials that can be made public. Materials that are considered confidential; marketing materials; pharmacoeconomic, pharnnacokinetic or pharmacodynamic studies; study types not included in the review; or information on indications not included in the review cannot be used by the Effective Health Care Program. This is a voluntary request for information, and all costs for complying with this request must be borne by the submitter.

The draft of this review will be posted on AHRQ's EHC program Web site and available for public comment for a period of 4 weeks. If you would like to be notified when the draft is posted, please sign up for the email list at: *http://effectivehealthcare.AHRQ.gov/index.cfm/join-the-email-list1/*.

Key Question 1

What is the comparative effectiveness of imaging techniques for pretreatment staging of patients with primary and recurrent colorectal cancer?

a. What is the test performance of the imaging techniques used (singly, in combination, or in a specific sequence) to stage colorectal cancer when compared with a reference standard?

b. What is the impact of alternative imaging techniques on intermediate outcomes, including stage reclassification and changes in therapeutic management?

c. What is the impact of alternative imaging techniques on clinical outcomes?

d. What are the adverse effects or harms associated with using imaging techniques, including harms of test-directed management?

e. How is the comparative effectiveness of imaging techniques modified by the following factors:

i. Patient-level characteristics (e.g., age, sex, body mass index)

ii. Disease characteristics (e.g., tumor grade)

iii. Imaging technique or protocol characteristics (e.g., use of different tracers or contrast agents, radiation dose of the imaging modality, slice thickness, timing of contrast)

Key Question 2

What is the comparative effectiveness of imaging techniques for restaging patients with primary and recurrent colorectal cancer after initial treatment?

a. What is the test performance of the imaging techniques used (singly, in combination, or in a specific sequence) to restage colorectal cancer when compared with a reference standard?

b. What is the impact of alternative imaging techniques on intermediate outcomes, including stage reclassification and changes in therapeutic management?

c. What is the impact of alternative imaging techniques on clinical outcomes?

d. What are the adverse effects or harms associated with using imaging techniques, including harms of test-directed management?

e. How is the comparative effectiveness of imaging techniques modified by the following factors:

i. Patient-level characteristics (e.g., age, sex, body mass index)

ii. Disease characteristics (e.g., tumor grade)

iii. Imaging technique or protocol characteristics (e.g., use of different tracers or contrast agents, radiation dose of the imaging modality, slice thickness, timing of contrast)

PICOTS Criteria (Population, Intervention, Comparator, Outcomes, Timing, Setting)

Populations

- Adult patients with an established diagnosis of primary colorectal cancer
- Adult patients with an established diagnosis of recurrent colorectal cancer

Interventions

Noninvasive imaging using the following tests (alone or in combination) to assess the stage of colorectal cancer:

- CT
- PET/CT
- MRI
- Endoscopic ultrasound

Combinations of particular interest include endoscopic ultrasound to evaluate the T stage combined with PET/CT or CT to evaluate the N and M stages.

Reference Standards To Assess Test Performance

- Histopathological examination of tissue
- Intraoperative findings
- Clinical followup

Histopathology of surgically resected specimens is the reference standard for pretherapy staging. In patients undergoing surgery, the nodal (N) stage and spread of the tumor to nearby regional structures and other organs is assessed intraoperatively, either by palpation or ultrasound. However, in patients with metastatic disease who undergo palliative care, a combination of initial biopsy results and clinical followup serves as the reference standard.

Clinicians use the results from the imaging modality or modalities to arrive at a stage determination that is compared against the stage established by the reference standard. These comparisons tell us how many people were correctly classified in the various stages of the disease and allow us to calculate the test performance metrics of sensitivity, specificity, and accuracy. The selection of the reference standard is important in evaluating the true performance of an imaging modality for staging.

Comparators

- Any direct comparisons of the imaging tests of interest
- Any direct comparisons of variations of any of the imaging tests of interest (e.g., diffusion-weighted MRI vs. T2-weighted MRI)

Comparators thought to be of particular clinical interest are listed below:

- For colon cancer: a contrast-enhanced CT of the chest, abdomen, and pelvis versus whole-body PET/CT versus a contrast-enhanced MRI of the chest, abdomen, and pelvis
- For rectal cancer: a contrast-enhanced CT of the abdomen and pelvis versus an MRI of the abdomen and pelvis
- For rectal cancer: endoscopic ultrasound versus MRI
- For suspected liver metastasis: CT scan versus MRI or PET/CT of the abdomen
- For suspected widespread metastasis, CT of the chest, abdomen, and pelvis versus whole-body PET/CT or contrast-enhanced MRI of the chest, abdomen, and pelvis

We note that this list is based on a preliminary literature search and discussions with a limited number of clinicians and the Technical Expert Panel (TEP). Thus, we do not anticipate that the listed items cover all of the comparisons of interest. We expect that additional comparisons will be identified during the literature review.

Outcomes

- Test performance outcomes
  - Test performance (e.g., sensitivity, specificity, understaging, and overstaging) against a reference standard test (pathological examination, intraoperative findings, clinical followup)
- Intermediate outcomes
  - Stage reclassification
  - Changes in therapeutic management
- Clinical outcomes
  - Overall mortality
  - Colorectal cancer-specific mortality
  - Quality of life and anxiety
  - Need for additional staging tests, including invasive procedures
  - Need for additional treatment, including surgery, radiotherapy, or chemotherapy
  - Resource utilization related to testing and treatment (when reported in the included studies)
- Adverse effects and harms
  - Harms of testing per se (e.g., radiation exposure)
  - Harms from test-directed treatments (e.g., overtreatment, undertreatment)

Timing

- Primary staging
- Interim restaging
- Duration of followup will vary by outcome (e.g., from no followup for test performance measurements to many years for mortality)

Setting

- Any setting will be considered

Dated: June 13, 2013.

Carolyn M. Clancy,

AHRQ, Director.

[FR Doc. 2013–15288 Filed 6–26–13; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0001]

Cardiovascular and Renal Drugs 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: Cardiovascular and Renal Drugs 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 August 6, 2013, from 8 a.m. to 4 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." Please note that visitors to the White Oak Campus must enter through Building 1.

Contact Person: Kristina Toliver, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, *FAX:* 301–847–8533, *email: CRDAC@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 August 6, 2013, the committee will discuss new drug application (NDA) 204819, proposed trade name ADEMPAS (riociguat coated tablet), submitted by Bayer HealthCare Pharmaceuticals Inc., for the treatment of: (1) Chronic thromboembolic pulmonary hypertension World Health Organization (WHO) Group 4 to improve exercise capacity and WHO functional class and (2) pulmonary arterial hypertension (WHO Group 1) to improve exercise capacity, improve WHO functional class, and to delay clinical worsening.

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 July 22, 2013. Oral presentations from the public will be scheduled between approximately 12:30 p.m. to 1:30 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 July 12, 2013. 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 July 15, 2013.

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 Kristina Toliver 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: *June 21, 2013.*

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2013–15332 Filed 6–26–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Lists of Designated Primary Medical Care, Mental Health, and Dental Health Professional Shortage Areas

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: This notice advises the public of the published lists of all geographic areas, population groups, and facilities designated as primary medical care, mental health, and dental health professional shortage areas (HPSAs) as of May 11; 2013, available on the Health Resources and Services Administration (HRSA) Web site at *http://www.hrsa.gov/shortage/.* HPSAs are designated or withdrawn by the Secretary of Health and Human Services (HHS) under the authority of section 332 of the Public Health Service (PHS) Act and 42 CFR part 5.

FOR FURTHER INFORMATION CONTACT: Requests for further information on the HPSA designations listed on the HRSA Web site below and requests for additional designations, withdrawals, or reapplication for designation should be submitted to Victoria Hux, Chief, Shortage Designation Branch, Bureau of Clinician Recruitment and Service, Health Resources and Services Administration, Room 9A–55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 594–0816, *http://www.hrsa.gov/shortage/.*

SUPPLEMENTARY INFORMATION:

Background

Section 332 of the PHS Act, 42 U.S.C. 254e, provides that the Secretary of HHS shall designate HPSAs based on criteria established by regulation. HPSAs are defined in section 332 to include (1) Urban and rural geographic areas with shortages of health professionals, (2) population groups with such shortages, and (3) facilities with such shortages. Section 332 further requires that the Secretary annually publish a list of the designated geographic areas, population groups, and facilities. The lists of HPSAs are to be reviewed at least annually and revised as necessary. HRSA's Bureau of Clinician Recruitment and Service (BCRS) has the responsibility for designating and updating HPSAs.

Public or private nonprofit entities are eligible to apply for assignment of National Health Service Corps (NHSC) personnel to provide primary care,

dental, or mental health services in or to these HPSAs. NHSC health professionals with a service obligation may enter into service agreements to serve only in federally designated HPSAs. Entities with clinical training sites located in HPSAs are eligible to receive priority for certain residency training program grants administered by the Bureau of Health Professions. Many other federal programs also utilize HPSA designations. For example, under authorities administered by the Centers for Medicare and Medicaid Services, certain qualified providers in geographic area HPSAs are eligible for increased levels of Medicare reimbursement.

Development of the Designation and Withdrawal Lists

Criteria for designating HPSAs were published as final regulations (42 CFR part 5) in 1980. Criteria then were defined for each of seven health professional types (primary medical care, dental, psychiatric, vision care, podiatric, pharmacy, and veterinary care). The criteria for correctional facility HPSAs were revised and published on March 2, 1989 (54 FR 8735). The criteria for psychiatric HPSAs were expanded to mental health HPSAs on January 22, 1992 (57 FR 2473). Currently funded PHS Act programs use only the primary medical care, mental health, or dental HPSA designations.

Individual requests for designation or withdrawal of a particular geographic area, population group, or a facility as a HPSA are received and reviewed continuously by BCRS. The majority of the requests come from the Primary Care Offices (PCO) in the State Health Departments, who have access to the on-line application and review system. Requests that come from other sources are referred to the PCOs for their review and concurrence. In addition, interested parties, including the Governor, the State Primary Care Association and state professional associations are notified of each request submitted for their comments and recommendations.

Annually, lists of designated HPSAs are made available to all PCOs, state medical and dental societies, and others with a request to review and update the data on which the designations are based. Emphasis is placed on updating those designations that are more than three years old or where significant changes relevant to the designation criteria have occurred.

Recommendations for possible additions, continuations, revisions, or withdrawals from a HPSA list are reviewed by BCRS, and the review findings are provided by letter to the agency or individual requesting action or providing data, with copies to other interested organizations and individuals. These letters constitute the official notice of designation as a HPSA, rejection of recommendations for HPSA designation, revision of a HPSA designation, and/or advance notice of pending withdrawals from the HPSA list. Designations (or revisions of designations) are effective as of the date on the notification letter from BCRS. Proposed withdrawals become effective only after interested parties in the area affected have been afforded the opportunity to submit additional information to BCRS in support of its continued or revised designation. If no new data are submitted, or if BCRS review confirms the proposed withdrawal, the withdrawal becomes effective upon publication of the lists of designated HPSAs in the **Federal Register.** In addition, lists of HPSAs are updated daily on the HRSA Web site, *http://www.hrsa.gov/shortage/,* so that interested parties can access the most accurate and timely information.

Publication and Format of Lists

Due to the large volume of designations, a printed version of the list is no longer distributed. This notice serves to inform the public of the availability of the complete listings of designated HPSA on the HRSA Web site. The three lists (primary medical care, mental health, and dental) of designated HPSAs are available at a link on the HRSA Web site at *http://www.hrsa.gov/shortage/* and include a snapshot of all geographic areas, population groups, and facilities that were designated HPSAs as of May 11, 2013. This notice incorporates the most recent annual reviews of designated HPSAs and supersedes the HPSA lists published in the **Federal Register** on June 29, 2012 (77 FR 38838). The lists also include automatic facility HPSAs, designated as a result of the Health Care Safety Net Amendments of 2002 (Pub. L. 107–251), not subject to update requirements. Each list of designated HPSAs (primary medical care, mental health, and dental) is arranged by state. Within each state, the list is presented by county. If only a portion (or portions) of a county is (are) designated, or if the county is part of a larger designated service area, or if a population group residing in the county or a facility located in the county has been designated, the name of the service area, population group, or facility involved is listed under the county name. Counties that have a whole county geographic HPSA are indicated by the "Entire county HPSA" notation following the county name. Further details on the snapshot of HPSAs listed can be found on the HRSA Web site: *http://www.hrsa.gov/shortage/.*

In addition to the specific listings included in this notice, all Indian Tribes that meet the definition of such Tribes in the Indian Health Care Improvement Act of 1976, 25 U.S.C. 1603(d), are automatically designated as population groups with primary medical care and dental health professional shortages. The Health Care Safety Net Amendments of 2002 also made the following entities eligible for automatic facility HPSA designations: all federally qualified health centers (FQHCs) and rural health clinics that offer services regardless of ability to pay. These entities include: FQHCs funded under section 330 of the PHS Act, FQHC Look-Alikes, and Tribal and urban Indian clinics operating under the Indian Self-Determination and Education Act of 1975 (25 U.S.C. 450) or the Indian Health Care Improvement Act. Many, but not all, of these entities are included on this listing. Exclusion from this list does not exclude them from HPSA designation; any facilities eligible for automatic designation will be included in the database as they are identified.

Future Updates of Lists of Designated HPSAs

The lists of HPSAs on the HRSA Web site below consist of all those that were designated as of May 11, 2013. It should be noted that HPSAs are currently updated on an ongoing basis based on the identification of new areas, population groups, and facilities and sites that meet the eligibility criteria or that no longer meet eligibility criteria and/or are being replaced by another type of designation. As such, additional HPSAs may have been designated by letter since that date. The appropriate agencies and individuals have been or will be notified of these actions by letter. These newly designated HPSAs will be included in the next publication of the HPSA list and are currently included in the daily updates posted on the HRSA Web site at *http://www.hrsa.gov/shortage/find.html.*

Any designated HPSA listed on the HRSA Web site below is subject to withdrawal from designation if new information received and confirmed by HRSA indicates that the relevant data for the area involved have significantly changed since its designation. The effective date of such a withdrawal will be the next publication of a notice regarding this list in the **Federal Register.**

All requests for new designations, updates, or withdrawals should be based on the relevant criteria in regulations published at 42 CFR Part 5.

Electronic Access Address

The complete list of HPSAs designated as of May 11, 2013, are available on the HRSA Web site at *http://www.hrsa.gov/shortage/*. Frequently updated information on HPSAs is also available at *http://datawarehouse.hrsa.gov*.

Dated: June 21, 2013.

Mary K. Wakefield,

Administrator.

[FR Doc. 2013–15380 Filed 6–26–13; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions and Delegations of Authority

This notice amends Part R of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA) (60 FR 56605, as amended November 6, 1995; as last amended at 78 FR 32404–32405 dated May 30, 2013).

This notice reflects organizational changes in the Health Resources and Services Administration (HRSA). Specifically, this notice abolishes the Office of Special Health Affairs (OSHA) (RA1) and transfers functions to other areas throughout HRSA. (1) The Office of Health Equity (RAB) function will transfer from OSHA to the Office of the Administrator (RA); (2) the Office of Global Health Affairs (RPJ) function will transfer from OSHA to the Bureau of Health Professions (RP); (3) the Office of Strategic Priorities will be abolished, the oral and behavioral health function will transfer to the Bureau of Health Professions (RP); (4) the Office of Emergency Preparedness and Continuity of Operations function will transfer to the Office of Information Technology (RB5); (5) the Office of Health Information Technology and Quality will be abolished and functions will transfer to (a) the Healthcare Systems Bureau (RR); (b) the Office of Rural Health Policy (RH); and (c) the Office of Planning, Analysis and Evaluation (RA5); (6) establishes the Office of Performance and Quality Measurement (RA58) within the Office of Planning, Analysis and Evaluation (RA5). HRSA will benefit from the improvements and efficiencies gained through this reorganization.

Chapter RA—Office of the Administrator

Section RA–10, Organization

Delete in its entirety and replace with the following:

The Office of the Administrator (RA) is headed by the Administrator, Health Resources and Services Administration, who reports directly to the Secretary. The Office of the Administrator includes the following components:

(1) Immediate Office of the Administrator (RA);

(2) Office of Equal Opportunity, Civil Rights, and Diversity Management (RA2);

(3) Office of Planning, Analysis and Evaluation (RA5);

(4) Office of Communications (RA6);

(5) Office of Legislation (RAE);

(6) Office of Women's Health (RAW); and

(7) Office of Health Equity (RAB).

Section RA–20, Functions

Delete the functional statement for the Office of Special Health Affairs (RA1). Establish the functional statement for the Office of Health Equity (RAB) within the Office of the Administrator (RA).

Office of Health Equity (RAB)

Serves as the principal advisor and coordinator to the Agency for the special needs of minority and disadvantaged populations, including: (1) Providing leadership and direction to address HHS and HRSA Strategic Plan goals and objectives related to improving minority health and eliminating health disparities; (2) establishing and managing an Agency-wide data collection system for minority health activities and initiatives including the White House Initiatives for Historically Black Colleges and Universities, Educational Excellence for Hispanic Americans, Tribal Colleges and Universities, Asian Americans and Pacific Islanders, and departmental initiatives; (3) implementing activities to increase the availability of data to monitor the impact of Agency programs in improving minority health and eliminating health disparities; (4) participating in the formulation of HRSA's goals, policies, legislative proposals, priorities, and strategies as they affect health professional organizations and institutions of higher education and others involved in or concerned with the delivery of culturally-appropriate, quality health services to minorities and disadvantaged populations; (5) consulting with federal agencies and other public and private sector agencies and organizations to collaborate in addressing health equity, including enhancing cultural competence in health service providers; (6) establishing short-term and long-range objectives; and (7) participating in the focus of activities and objectives in assuring equity in access to resources and health careers for minorities and the disadvantaged.

Chapter RP—Bureau of Health Professions

Section RP–10, Organization

Delete in its entirety and replace with the following:

The Bureau of Health Professions is (RP) is headed by the Associate Administrator, Bureau of Health Professions, who reports directly to the Administrator, Health Resources and Services Administration (RA). The Bureau of Health Professions includes the following components:

(1) Office of the Associate Administrator (RP);

(2) Office of Administrative Management Services (RP1);

(3) Office of Global Health Affairs (RPJ);

(4) Office of Policy Coordination (RP3);

(5) Office of Performance Measurement (RP4);

(6) Division of Public Health and Interdisciplinary Education (RPF);

(7) Division of Medicine and Dentistry (RPC);

(8) Division of Nursing (RPB);

(9) Division of Practitioner Data Banks (RPG);

(10) Division of Student Loans and Scholarships (RPD); and

(11) National Center for Health Workforce (RPW).

Section RP–20, Functions

Delete and replace the functional statement for (1) the Bureau of Health Professions (RP); (2) the Office of the Associate Administrator; (3) the Division of Public Health and Interdisciplinary Education; (4) the Division of Medicine and Dentistry; and (5) establish the functional statement for the Office of Global Health Affairs (RPJ).

Bureau of Health Professions (RP)

The Bureau of Health Professions' programs are designed to improve the health of the nation's underserved communities and vulnerable populations by assuring a diverse, culturally competent workforce that is ready to provide access to quality health care services. Bureau of Health Professions' program components

provide workforce studies, including research analysis of alternative methodologies for areas of need, training grants for health professions, financial support to students, information to protect the public from unsafe health care practitioners, support for graduate medical education at the nation's freestanding children's hospitals and teaching health centers, and coordinate global health activities. The Health Professions Training Program awards grants to health profession schools and training programs in every state. Grantees use the funds to develop, expand, and enhance their efforts to train the workforce America needs.

Office of the Associate Administrator (RP)

The Office of the Associate Administrator provides overall leadership, direction, coordination, and planning in support of the Bureau of Health Professions' programs to ensure alignment and support of the Agency mission and strategic objectives. Specifically, the Office of the Associate Administrator: (1) Directs and provides policy guidance for workforce recruitment, student assistance, training, and placement of health professionals to serve in underserved areas; (2) establishes program goals and priorities, and provides oversight of program quality and integrity in execution; (3) maintains effective relationships within HRSA and with other federal and nonfederal agencies, state and local governments, and other public and private organizations concerned with health workforce development and improving access to health care for the nation's underserved; (4) plans, directs, and coordinates bureau-wide management and administrative activities; (5) leads and guides bureau programs in recruiting and retaining a diverse workforce; and (6) coordinates, reviews, and provides clearance of correspondence and official documents entering and leaving the bureau.

Office of Global Health Affairs (RPJ)

Serves as the principal advisor to the Agency on global health issues. Specifically: (1) Provides leadership, coordination, and advancement of global health activities relating to health care services for vulnerable and at-risk populations and for training programs for HRSA programs; (2) provides support for the Agency's International Visitors Program; and (3) provides leadership within HRSA for the support of global health and coordinates policy development with the HHS Office of Global Health Affairs and other departmental agencies.

Division of Public Health and Interdisciplinary Education (RPF)

The Division of Public Health and Interdisciplinary Education serves as the bureau's lead for increasing the public health and behavioral health workforce, promoting interdisciplinary health professions issues and programs, including geriatric training, and increasing the diversity of the health professions workforce. Specifically: (1) Provides grants and technical assistance to expand and enhance training critical to the current and future public health workforce, supports academic-community partnerships, expands and improves the quality of health professions interdisciplinary and inter-professional education, expands health career opportunities for diverse and disadvantaged populations and supports and guides the career development in geriatric specialties; (2) evaluates programmatic data and promotes the dissemination and application of findings arising from supported programs; (3) collaborates within the bureau to conduct, support, or obtain analytical studies to determine the present and future supply requirements of the healthcare workforce in the areas addressed by the Division of Public Health and Interdisciplinary Education's programs; (4) provides leadership and staff support for the Advisory Committee on Interdisciplinary, Community-Based Linkages; and (5) represents the bureau, Agency, and federal government, as designated, on national committees, and maintains effective relationships within HRSA and with other federal and non-federal agencies, state and local governmental agencies, and other public and private organizations concerned with public health and behavioral health workforce development, and improving access to health care for the nation's underserved.

Division of Medicine and Dentistry (RPC)

The Division of Medicine and Dentistry serves as the bureau's lead in support and evaluation of medical and dental personnel development and utilization including (a) primary care physicians, (b) dentists, (c) dental hygienists, and (d) physician assistants to provide health care in underserved areas. Specifically: (1) Administers grants to educational institutions for the development, improvement, and operation of educational programs for primary care physicians (pre-doctoral, residency) and physician assistants, including support for community-based training and funding for faculty development to teach in primary care specialties training; (2) provides technical assistance and consultation to grantee institutions and other governmental and private organizations on the operation of these educational programs which includes funding for the nation's free standing children's hospitals to support graduate medical education; (3) evaluates programmatic data and promotes the dissemination and application of findings arising from supported programs; (4) collaborates within the bureau to conduct, support, or obtain analytical studies to determine the present and future supply and requirements of physicians, dentists, dental hygienists and physician assistants by specialty, geographic location, and for state planning efforts; (5) encourages community-based training opportunities for primary care providers, particularly in underserved areas; (6) provides leadership and staff support for the Advisory Committee on Training in Primary Care Medicine and Dentistry and for the Council on Graduate Medical Education; and (7) represents the bureau, Agency, and federal government, as designated, on national committees maintaining effective relationships within HRSA and with other federal and non-federal agencies, state and local governments, and other public and private organizations concerned with health personnel development and improving access to health care for the nation's underserved.

Chapter RB5—Office of Information Technology

Section RB5–10, Organization

The Office of Information Technology (RB5) is headed by the Director, Office of Information Technology, who reports to the Chief Operating Officer, Office of Operations (RB).

Section RB5–20, Functions

Delete and replace the functional statement for the Office of the Director and Chief Information Officer (RB5).

Office of the Director and Chief Information Officer (RB5)

The Chief Information Officer is responsible for the organization, management, and administrative functions necessary to carry out the responsibilities of the Chief Information Officer including: (1) Provides organizational development, investment control, budget formulation and execution, policy development, strategic and tactical planning, and performance monitoring; (2) provides leadership in

the development, review, and implementation of policies and procedures to promote improved information technology management capabilities and best practices throughout HRSA; (3) coordinates Information Technology (IT) workforce issues and works closely with the Office of Management on IT recruitment and training issues; (4) coordinates HRSA activities related to emergency preparedness planning and policy; (5) oversees the HRSA Emergency Operations Center; (6) serves as HRSA's liaison to HHS and interagency partners on emergency preparedness matters; (7) coordinates HRSA continuity of operations and continuity of Government activities and maintains HRSA's Alternate Operating Facilities; and (8) provides guidance on workforce health protection issues for emergencies and disasters.

Chapter RR—Healthcare Systems Bureau

Section RR–10, Organization

The Healthcare Systems Bureau (RR) is headed by the Associate Administrator, Healthcare Systems Bureau, who reports to the Administrator, Health Resources and Services Administration (RA).

Section RR–20, Functions

Delete and replace the functional statement for the Division of Vaccine Injury Compensation (RR4).

Division of Vaccine Injury Compensation (RR4)

The Division of Vaccine Injury Compensation, on behalf of the Secretary of Health and Human Services, administers all statutory authorities related to the operation of the National Vaccine Injury Compensation Program by: (1) Evaluating petitions for compensation filed under the National Vaccine Injury Compensation Program through medical review and assessment of compensability for all complete claims; (2) processing awards for compensations made under the National Vaccine Injury Compensation Program; (3) promulgating regulations to revise the Vaccine Injury Table; (4) providing professional and administrative support to the Advisory Commission on Childhood Vaccines; (5) developing and maintaining all automated information systems necessary for program implementation; (6) providing and disseminating program information; (7) maintaining a working relationship with the Department of Justice and the U.S. Court of Federal Claims in the administration and operation of the National Vaccine Injury Compensation Program; (8) providing management, direction, budgetary oversight, coordination, and logistical support for the Medical Expert Panel contracts as well as Clinical Reviewer Contracts; (9) maintaining responsibility for activities related to the Advisory Commission on Childhood Vaccines, the development of policy, regulations, budget formulation, and legislation, including the development and renewal of the Advisory Commission on Childhood Vaccines charter and action memoranda to the Secretary, and the analysis of the findings and proposals of the Advisory Commission on Childhood Vaccines; (10) developing, reviewing, and analyzing pending and new legislation relating to program changes, new initiatives, the Advisory Commission on Childhood Vaccines, and changes to the Vaccine Injury Table, in coordination with the Office of the General Counsel; (11) providing programmatic outreach efforts to maximize public exposure to private and public constituencies; (12) providing submission of special reports to the Secretary of the Department of Health and Human Services, the Office of Management and Budget, the Congress, and other governmental bodies; (13) providing the coordination of Advisory Commission on Childhood Vaccines travel, personnel, meeting sites, and its agenda; (14) provides guidance in using the results of the medical claims review process to HRSA programs to improve quality; and (15) provides support for the Department's Medical Claims Review Panel.

Chapter RH—Office of Rural Health Policy

Section RH–10, Organization

The Office of Rural Health Policy (RH) is headed by the Associate Administrator, Office of Rural Health Policy, who reports to the Administrator, Health Resources and Services Administration (RA).

Section RH–20, Functions

Delete and replace the functional statement for the Office of the Associate Administrator (RH).

Office of the Associate Administrator (RH)

The Office of the Administrator is headed by the Associate Administrator who, in conjunction with other management officials within HRSA, is responsible for the overall leadership and management of the Office of Rural Health Policy. The Office of Rural Health Policy serves as a focal point within the Department and as a principal source of advice to the Administrator and Secretary for coordinating efforts to strengthen and improve the delivery of health services to populations in the nation's rural areas and border areas, providing leadership and interacting with stakeholders in the delivery of health care to underserved and at risk populations. Specifically, the Office of Rural Health Policy is organized around the following primary issue areas: *Delivery of Health Services:* (1) Collects and analyzes information regarding the special problems of rural health care providers and populations; (2) works with states, state hospital associations, private associations, foundations, and other organizations to focus attention on, and promote solutions to, problems related to the delivery of health services in rural communities; (3) provides staff support to the National Advisory Committee on Rural Health and Human Services; (4) stimulates and coordinates interaction on rural health activities and programs in the Agency, Department and with other federal agencies; (5) supports rural health center research and keeps informed of research and demonstration projects funded by states and foundations in the field of rural health care delivery; (6) establishes and maintains a resource center for the collection and dissemination of the latest information and research findings related to the delivery of health services in rural areas; (7) coordinates congressional and private sector inquiries related to rural health; (8) advises the Agency, Administrator and Department on the effects of current policies and proposed statutory, regulatory, administrative, and budgetary changes in the programs established under titles XVIII and XIX of the Social Security Act on the financial viability of small rural hospitals, the ability of rural areas to attract and retain physicians and other health professionals; (9) oversees compliance by CMS with the requirement that rural hospital impact analyses are developed whenever proposed regulations might have a significant impact on a substantial number of small rural hospitals; (10) supports specialized rural programs on minority health, mental health, preventive health education, oral health, and occupational health and safety; (11) directs the management of a nationwide rural health grants program; (12) directs the management of a program of state grants which support collaboration within state offices of rural health; (13) funds radiation exposure screening and education programs that screen eligible individuals adversely affected by the

mining, transport and processing of uranium and the testing of nuclear weapons for cancer and other diseases; (14) serves as the focal point for developing policy to promote the coordination and advancement of health information technology, including telehealth to HRSA's programs, including the use of electronic health record systems; (15) develops an Agency-wide health information technology and telehealth strategy for HRSA; (16) assists HRSA components in program-level health information technology efforts; (17) ensures successful dissemination of appropriate information technology advances, such as electronic health records systems, to HRSA programs; (18) works collaboratively with states, foundations, national organizations, private sector providers, as well as departmental agencies and other federal departments in order to promote the adoption of health information technology; (19) ensures the health information technology policy and activities of HRSA are coordinated with those of other HHS components; (20) assesses the impact of health information technology initiatives in the community, especially for the uninsured, underserved, and special needs populations; and (21) translates technological advances in health information technology to HRSA's programs.

Chapter RA5—Office of Planning, Analysis and Evaluation

Section RA5–10, Organization

Delete in its entirety and replace with the following:

The Office of Planning, Analysis and Evaluation (OPAE) is headed by the Director, OPAE, who reports to the Administrator, Health Resources and Services Administration (RA). The OPAE includes the following components:

(1) Office of the Director (RA5);

(2) Office of Policy Analysis (RA53);

(3) Office of Research and Evaluation (RA56);

(4) Office of External Engagement (RA57); and

(5) Office of Performance and Quality Measurement (RA58).

Section RA5–20, Functions

Delete and replace the functional statement for the Office of the Director (RA5) and establish the functional statement for the Office of Performance and Quality Measurement (RA58).

Office of the Director (RA5)

(1) Provides Agency-wide leadership for policy development, data collection and management, major analytic activities, research, and evaluation; (2) develops HRSA-wide policies; (3) coordinates the agency's long term strategic planning process; (4) conducts and/or guides analyses, research, and program evaluation; (5) coordinates the Agency's participation in Department and federal initiatives; (6) as requested, develops, implements, and coordinates policy processes for the Agency for key major cross-cutting policy issues; (7) facilitates policy development by maintaining analytic liaison between the Administrator, other OPDIVs, Office of the Secretary staff components, and other Departments on critical matters involving program policy undertaken in the Agency; (8) provides data analyses, graphics presentations, briefing materials, and analyses on short notice to support the immediate needs of the Administrator and Senior Leadership; (9) conducts special studies and analyses and/or provides analytic support and information to the Administrator and Senior Leadership needed to support the Agency's goals and directions; (10) collaborates with the Office of Operations in the development of budgets, performance plans, and other administration reporting requirements; (11) provides support, policy direction, and leadership for HRSA's health quality efforts; (12) produces regular HRSA-wide program performance reports and plans.

Office of Performance and Quality Measurement (RA58)

(1) Serves as the principal Agency resource for performance and quality measurement and reporting and for supporting HRSA in its implementation of the National Quality Strategy; (2) produces regular HRSA-wide program performance reports and plans in compliance with the Government Performance and Results Act Modernization Act, and OMB and departmental directives, including performance budget material and web-based data system reports; (3) provides technical assistance to HRSA divisions in the selection, development, maintenance, and alignment of performance measures; (4) provides support, policy direction, and leadership for HRSA's health quality measurement efforts, including assists HRSA components in health quality assessment and measuring the impact of health quality initiatives in the community, especially for the uninsured, underserved, and special needs populations; and (5) collaborates with other HHS agencies to promote improvements in the availability of performance- and quality-related information.

Section RA5–30, Delegations of Authority

All delegations of authority and re-delegations of authority made to HRSA officials that were in effect immediately prior to this reorganization, and that are consistent with this reorganization, shall continue in effect pending further re-delegation.

This reorganization is effective upon date of signature.

Dated: June 17, 2013.

Mary K. Wakefield,

Administrator.

[FR Doc. 2013–15420 Filed 6–26–13; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2013–0034]

National Infrastructure Advisory Council; Meetings

AGENCY: National Protection and Programs Directorate, DHS.

ACTION: Committee Management; Notice of open Federal Advisory Committee Meetings.

SUMMARY: The National Infrastructure Advisory Council (NIAC) will meet July 17, August 14, and September 17, 2013. The meetings will be open to the public.

DATES: The NIAC will meet at the following dates and times: July 17, 2013, at 3:00 p.m. to 4:30 p.m.; August 14, 2013, at 4:00 p.m. to 5:30 p.m.; and September 17, 2013, at 3:00 p.m. to 4:30 p.m. Please note that the meetings may close early if the committee has completed its business. For additional information, please consult the NIAC Web site, *www.dhs.gov/NIAC*, or contact the NIAC Secretariat by phone at (703) 235–2888 or by email at *NIAC@hq.dhs.gov*.

ADDRESSES: National Intellectual Property Rights Coordination Center Auditorium, 2451 Crystal Drive, Suite 150, Arlington, VA 22202.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the person listed under **FOR FURTHER INFORMATION CONTACT** below as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the Council as listed in the "Summary" section below. Comments must be submitted in writing no later than 12:00 p.m. one day

before each meeting and must be identified by "DHS–2013–0034" and may be submitted by any one of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting written comments.
- *Email: NIAC@hq.dhs.gov.* Include the docket number in the subject line of the message.
- *Fax:* (703) 603–5098.
- *Mail:* Nancy Wong, National Protection and Programs Directorate, Department of Homeland Security, 245 Murray Lane SW., Mail Stop 0607, Arlington, VA 20598–0607.

Instructions: All written submissions received must include the words "Department of Homeland Security" and the docket number for this action. Written comments received will be posted without alteration at *www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the NIAC, go to *www.regulations.gov.*

Members of the public will have an opportunity to provide oral comments after presentations on the topics on the agenda and prior to any Committee discussions. We request that comments be limited to the issues listed in the meeting agenda. Relevant public comments may be submitted in writing or presented in person for the Council to consider. Comments received by Nancy Wong after 12:00 p.m. one day prior to each meeting will still be accepted and reviewed by the members but not necessarily by the time of the meeting. In-person presentations will be limited to three minutes per speaker, with no more than 30 minutes for all speakers. Parties interested in making in-person comments should register no later than 15 minutes prior to the beginning of the meeting at the meeting location.

FOR FURTHER INFORMATION CONTACT: Nancy Wong, National Infrastructure Advisory Council Designated Federal Officer, Department of Homeland Security, telephone (703) 235–2888.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463). The NIAC shall provide the President through the Secretary of Homeland Security with advice on the security and resilience of the Nation's critical infrastructure sectors and their information systems.

At each meeting, the committee will receive an update and presentation from the Department of Homeland Security on the Implementation Planning for Executive Order 13636 and Presidential Policy Directive 21. Aspects of the Implementation Plan include partnership, information sharing, incentives, risk management, and national plan revision. The committee will discuss, deliberate, and provide recommendations for the Implementation Plan. The presentation for the topic to be discussed will be posted no later than one week prior to the meeting on the Council's public Web page on *www.dhs.gov/NIAC.*

Meeting Agenda

I. Opening of Meeting
II. Roll Call of Members
III. Introductions
IV. Update and Discussion on Implementation Plan for Executive Order 13636 and Presidential Policy Directive 21 by the Department of Homeland Security
V. Public Comment: Discussion Limited to Meeting Agenda Items
VI. Discussion and Deliberation on Council Recommendations for Implementation Plan for Executive Order 13636 and Presidential Policy Directive 21
VII. Adjournment

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the NIAC Secretariat at (703) 235–2888 as soon as possible.

Dated: June 20, 2013.

Nancy Wong,

Designated Federal Officer for the NIAC.

[FR Doc. 2013–15353 Filed 6–26–13; 8:45 am]

BILLING CODE 9110–9P–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2013–0006]

Privacy Act of 1974; Computer Matching Program

AGENCY: Department of Homeland Security/U.S. Citizenship and Immigration Services.

ACTION: Notice.

Overview Information: Privacy Act of 1974; Computer Matching Program between the Department of Homeland Security/U.S. Citizenship and Immigration Services and the California Department of Social Services.

SUMMARY: This document provides notice of the existence of a Computer Matching Agreement that establishes a computer matching program between the Department of Homeland Security/U.S. Citizenship and Immigration Services and the California Department of Social Services.

SUPPLEMENTARY INFORMATION: The Department of Homeland Security/U.S. Citizenship and Immigration Services provides this notice in accordance with The Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503) and the Computer Matching and Privacy Protection Amendments of 1990 (Pub. L. 101–508) (Privacy Act); Office of Management and Budget (OMB) Final Guidance Interpreting the Provisions of Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988, 54 FR 25818 (June 19, 1989); and OMB Circular A–130, Appendix I, 65 FR 77677 (December 12, 2000).

Participating Agencies: The Department of Homeland Security/U.S. Citizenship and Immigration Services (DHS/USCIS) is the source agency and the California Department of Social Services (CA–DSS) is the recipient agency.

Purpose of the Match: The Computer Matching Agreement (Agreement) that establishes this computer matching program allows DHS/USCIS to provide CA–DSS with electronic access to immigration status information contained within the DHS/USCIS Verification Information System (VIS). The immigration status information will enable CA–DSS to determine whether an applicant is eligible for benefits under the Temporary Assistance for Needy Families (TANF) program and Supplemental Nutrition Assistance Program (SNAP) program administered by CA–DSS.

Authority for Conducting the Matching Program: Section 121 of the Immigration Reform and Control Act (IRCA) of 1986, Public Law 99–603, as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), requires DHS to establish a system for the verification of immigration status of alien applicants for, or recipients of, certain types of benefits as specified in IRCA, and to make this system available to state agencies that administer such benefits. Section 121(c) of IRCA amends Section 1137 of the Social Security Act and certain other sections of law that pertain to Federal entitlement benefit programs to require state agencies administering these programs to use the DHS/USCIS verification system to make eligibility determinations in order to prevent the issuance of benefits to alien applicants who are not entitled to program benefits

because of their immigration status. The VIS database is the DHS/USCIS system established and made available to CA–DSS and other covered agencies for use in making these eligibility determinations.

CA–DSS seeks access to the information contained in DHS/USCIS VIS database for the purpose of confirming the immigration status of alien applicants for, or recipients of, the benefits it administers, in order to discharge its obligation to conduct such verifications pursuant to Section 1137 of the Social Security Act, 42 U.S.C. 1320b–7(a). Pursuant to Section 840 of the Personal Responsibility and Work Reconciliation Act of 1996, verification of applicants for Food Stamps through DHS/USCIS is optional for CA–DSS. CA–DSS has elected to use the VIS for all alien applicants for Food Stamps for the length of this Agreement.

Categories of Records and Individuals Covered: DHS/USCIS will provide the following to CA–DSS: Records in the DHS/USCIS VIS database containing information related to the status of aliens and other persons on whom DHS/USCIS has a record as an applicant, petitioner, or beneficiary. See DHS/USCIS–004 Systematic Alien Verification for Entitlements Program System of Records Notice, 76 FR 58525 (September 21, 2011).

CA–DSS will provide the following to DHS/USCIS: CA–DSS records pertaining to alien applicants for, or recipients of, entitlement benefit programs administered by the State.

CA–DSS will match the following records with DHS–USCIS records:

- Alien Registration Number (also referred to as USCIS Number)
- I–94 Number
- Last Name
- First Name
- Middle Name
- Date of Birth
- Nationality
- Social Security Number

DHS–USCIS will match the following records with CA–DSS records:

- Alien Registration Number
- Last Name
- First Name
- Middle Name
- Date of Birth
- Country of Birth (not nationality)
- Social Security Number (if available)
- Date of Entry
- Immigration Status Data
- Employment Eligibility Data

Inclusive Dates of the Matching Program: This Agreement will be effective 40 days after a report concerning the computer matching program has been transmitted to the Office of Management and Budget (OMB) and transmitted to Congress along with a copy of the Agreement, or 30 days after publication of a computer matching notice in the **Federal Register**, whichever is later. The Agreement (and matching activity) will continue for 18 months from the effective date, unless within three (3) months prior to the expiration of this Agreement, the Data Integrity Board approves a one-year extension pursuant to 5 U.S.C. 552a(o)(2)(D).

Address for Receipt of Public Comments or Inquires: Individuals wishing to comment on this matching program or obtain additional information about the program, including requesting a copy of the Computer Matching Agreement between DHS–USCIS and CA–DSS, may contact:

For general questions please contact: Donald K. Hawkins (202–272–8000), Privacy Officer, U.S. Citizenship and Immigration Services, Department of Homeland Security 20 Massachusetts Avenue NW., Washington, DC 20529.

For privacy questions please contact: Jonathan R. Cantor (202–343–1717), Acting Chief Privacy Officer, Privacy Office Department of Homeland Security Washington, DC 20528.

Jonathan R. Cantor,

Acting Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2013–15355 Filed 6–26–13; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2013–0568]

Great Lakes Pilotage Advisory Committee

AGENCY: Coast Guard, DHS.

ACTION: Committee Management; Notice of Federal Advisory Committee Meeting.

SUMMARY: The Great Lakes Pilotage Advisory Committee (GLPAC) will meet virtually on July 15, 2013. The meeting will be open to the public via a web-enabled interactive online format and teleconference line. Seating will be available at Coast Guard Headquarters in Washington, DC for those interested.

DATES: GLPAC will meet on Monday, July 15, 2013, from 9:00 a.m. to 12:00 p.m. Please note the meeting may close early if the committee completes its business. Written material and requests to make oral presentations should reach us on or before July 12, 2013.

ADDRESSES: This meeting will be broadcast via a web-enabled interactive online format and teleconference line. To participate via teleconference dial 1–888–464–2980 and enter passcode 4460249. Additionally, if you would like to participate in this meeting via on the online web format, please log on to: *https://connect.hsin.gov/glpac2013* and follow the online instructions to register for the meeting. Public meeting space will also be available for anyone interested in participating in the teleconference and web format from Coast Guard Headquarters in Washington, DC. The meeting will be hosted from Room 5–1309 in Coast Guard Headquarters located at 2100 2nd Street SW., Washington, DC 20593. All visitors to Coast Guard Headquarters will have to pre-register to be admitted to the building. Please provide your name, telephone number and organization by close of business on July 12, 2013, to the contact person listed in **FOR FURTHER INFORMATION CONTACT:** below. Additionally, all visitors to Coast Guard Headquarters must provide identification in the form of government-issued picture identification card for access to the facility.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the person listed in **FOR FURTHER INFORMATION CONTACT:** below 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. Comments must be submitted in writing no later than July 12, 2013, and must be identified by [USCG–2013–0568] and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *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.
- *Hand Delivery:* Same as mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329. To avoid duplication, please use only one of these four methods.

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. 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,* and use "USCG–2013–0568" as your search term.

A public comment period of up to one hour will be held during the meeting on July 15, 2013, after the committee completes its work on the agenda given under **SUPPLEMENTARY INFORMATION.** Speakers are requested to limit their comments to 5 minutes. Please note that the public comment period may end before the hour allotted, following the last call for comments. Contact the individual listed below to register as a speaker.

FOR FURTHER INFORMATION CONTACT: Mr. David Dean, GLPAC Alternate Designated Federal Officer (ADFO), Commandant (CG–WWM–2), U.S. Coast Guard Headquarters, 2100 Second Street SW., Stop 7580, Washington, DC 20593–7580; telephone 202–372–1533, fax 202–372–1914, or email at *David.J.Dean@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the *Federal Advisory Committee Act,* 5 U.S.C. App. (Pub. L. 92–463). GLPAC was established under the authority of 46 U.S.C. 9307, and makes recommendations to the Secretary of Homeland Security and the Coast Guard on matters relating to Great Lakes pilotage, including review of proposed Great Lakes pilotage regulations and policies.

GLPAC expects to meet at least once more this year to discuss the way ahead and provide recommendations after a thorough review of public comments and discussion from this meeting. Further information about GLPAC is available by going to the Web site: *https://www.facadatabase.gov.* Click on the search tab and type "Great Lakes" into the search form. Then select "Great Lakes Pilotage Advisory Committee" from the list.

Agenda

1. Presentation of the final draft of the comprehensive pilotage study; a copy of the study is posted to the electronic docket. Please see instructions below for access.

2. Public comment period of up to one hour.

3. Discussion of the final draft of the comprehensive pilotage study and public comments to determine the way ahead.

More detailed information and materials relating to these issues appear in the docket, including a copy of the pilotage study, at *http://www.regulations.gov.* Use "USCG–2013–0568" as your search term.

D.A. Goward,

Director Marine Transportation Systems, U.S. Coast Guard.

[FR Doc. 2013–15494 Filed 6–26–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2013–0007; OMB No. 1660–0076]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (i.e., the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use. This notice reflects changes to the collection since the publishing of the 60 day notice on March 12, 2013. Since the 60 day notice, FEMA has decided to use a different, more effective quarterly reporting collection tool to monitor Hazard Mitigation Grant Program (HMGP) grantee project activities and expenditure of funds, FEMA Form No. 009–0–111A. This will allow FEMA to more effectively better meet regulatory mandates. Previous quarterly reporting was covered by a different OMB ICR. FEMA estimates that use of this tool will change the total burden hours for this collection.

DATES: Comments must be submitted on or before July 29, 2013.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, 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 or copies of the information collection should be made to Director, Records Management Division, 1800 South Bell Street, Arlington, VA 20598–3005, facsimile number (202) 646–3347, or email address *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Collection of Information

Title: Hazard Mitigation Grant Program Application and Reporting.

Type of Information Collection: Revision of a currently approved information collection.

Form Titles and Numbers: Narratives and FEMA Form No. 009–0–111A.

Abstract: Grantees administer the Hazard Mitigation Grant Program, which is a post-disaster program that contributes funds toward the cost of hazard mitigation activities in order to reduce the risk of future damage, hardship, loss or suffering in any area affected by a major disaster. FEMA uses applications to collect information for determining whether to provide financial assistance in the form of grant awards and monitors grantee project activities and expenditure of funds through a new grantee quarterly reporting tool, FEMA Form No. 009–0–111A. This new instrument will enable FEMA to meet requirements set out in 44 CFR 206.438(c).

Affected Public: State, Local or Tribal Government.

Estimated Number of Respondents: 56.

Estimated Total Annual Burden Hours: 37,576.

Estimated Cost: There is no annual operation or maintenance cost associated with this collection.

Dated: June 18, 2013.

Charlene D. Myrthil,

Director, Records Management Division, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2013–15350 Filed 6–26–13; 8:45 am]

BILLING CODE 9110–13–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4120–DR; Docket ID FEMA–2013–0001]

Vermont; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Vermont (FEMA–4120–DR), dated June 13, 2013, and related determinations.

DATES: *Effective Date:* June 13, 2013.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 13, 2013, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"), as follows:

I have determined that the damage in certain areas of the State of Vermont resulting from severe storms and flooding during the period of May 22–26, 2013 is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq. (the "Stafford Act"). Therefore, I declare that such a major disaster exists in the State of Vermont.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide emergency protective measures (Category B) and permanent work (Categories C–G) under the Public Assistance program in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Mark H. Landry, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Vermont have been designated as adversely affected by this major disaster:

Chittenden, Essex, and Lamoille Counties for emergency protective measures (Category B) and permanent work (Categories C–G) under the Public Assistance program.

All counties within the State of Vermont are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2013–15351 Filed 6–26–13; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4116–DR; Docket ID FEMA–2013–0001]

Illinois; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Illinois (FEMA–4116–DR), dated May 10, 2013, and related determinations.

DATES: *Effective Date:* June 13, 2013.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Illinois is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of May 10, 2013.

Carroll, Cass, Greene, Hancock, Lawrence, Monroe, Morgan, Scott, and Shelby Counties for Public Assistance.

Calhoun, McDonough, Peoria, Schuyler, Tazewell, and Will Counties for Public Assistance (already designated for Individual Assistance).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2013–15354 Filed 6–26–13; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4119–DR; Docket ID FEMA–2013–0001]

Iowa; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Iowa (FEMA–4119–DR), dated May 31, 2013, and related determinations.

DATES: *Effective Date:* June 20, 2013.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Iowa is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of May 31, 2013.

Jefferson County for Public Assistance, including direct federal assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2013–15356 Filed 6–26–13; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4116–DR; Docket ID FEMA–2013–0001]

Illinois; Amendment No. 5 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Illinois (FEMA–4116–DR), dated May 10, 2013, and related determinations.

DATES: *Effective Date:* June 20, 2013.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Illinois is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of May 10, 2013.

Brown County for Public Assistance (already designated for Individual Assistance).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2013–15358 Filed 6–26–13; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4121–DR; Docket ID FEMA–2013–0001]

Michigan; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Michigan (FEMA–4121–DR), dated June 18, 2013, and related determinations.

DATES: *Effective Date:* June 18, 2013.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 18, 2013, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"), as follows:

I have determined that the damage in certain areas of the State of Michigan resulting from flooding during the period of April 16 to May 14, 2013, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"). Therefore, I declare that such a major disaster exists in the State of Michigan.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Mark A. Neveau, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Michigan have been designated as adversely affected by this major disaster:

Allegan, Baraga, Barry, Gogebic, Houghton, Ionia, Kent, Keweenaw, Marquette, Midland, Muskegon, Newaygo, Ontonagon, Osceola, Ottawa, and Saginaw Counties for Public Assistance.

All counties within the State of Michigan are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2013–15352 Filed 6–26–13; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Notice of Issuance of Final Determination Concerning Valves

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of final determination.

SUMMARY: This document provides notice that U.S. Customs and Border

Protection (CBP) has issued a final determination concerning the country of origin of certain valves to be offered to the U.S. Government under an undesignated government procurement contract. The final determination found that based upon the facts presented, the country of origin of the subject valve is the United States.

DATES: The final determination was issued on June 14, 2013. A copy of the final determination is attached. Any party-at-interest as defined in 19 CFR 177.22(d), may seek judicial review of this final determination within 30 days of June 27, 2013.

FOR FURTHER INFORMATION CONTACT: Fernando Peña, Esq., Valuation and Special Programs Branch, Office of International Trade; telephone (202) 325–1511.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on June 14, 2013, pursuant to subpart B of part 177, Customs Regulations (19 CFR part 177, subpart B), CBP issued a final determination concerning the country of origin of certain valves to be offered to the U.S. Government under an undesignated government procurement contract. The final determination, Headquarters Ruling Letter H233698, was issued at the request of Omni Valve Company, LLC, under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–18).

In the final determination, CBP concluded that, based upon the facts presented, the assembly in the United States of an automatic differential thermal relief system ("ADTR") into an imported valve body to create the subject "Omni Double Block & Bleed Valve" substantially transformed the foreign body valve into a product of the U.S. for purposes of U.S. government procurement.

Section 177.29, Customs Regulations (19 CFR 177.29), provides that notice of final determinations shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, Customs Regulations (19 CFR 177.30), provides that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register**.

Dated: June 14, 2013.

Sandra L. Bell,

Executive Director, Regulations and Rulings, Office of International Trade.

Attachment

HQ H233698

June 14, 2013

OT:RR:CTF:VS H233698 FP

CATEGORY: Marking

Mr. Richard O. Wolf
Moore & Lee, LLP
1650 Tysons Boulevard, Suite 1150
McLean, VA 22102–4225

RE: U.S. Government Procurement; Final Determination; Country of origin of valves; substantial transformation; 19 CFR Part 177

Dear Mr. Wolf:

This is in response to your letter on behalf of Omni Valve Company, LLC (hereinafter "Omni"), in which you seek a final determination pursuant to subpart B of Part 177, Customs Regulations, 19 CFR 177.21 *et seq.* Under these regulations, which implement Title III of the Trade Agreements Act of 1979, as amended, (19 U.S.C. § 2411 *et seq.*), U.S. Customs and Border Protection ("CBP") issues country of origin advisory rulings and final determinations on whether an article is or would be a product of a designated foreign country or instrumentality for the purpose of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

This final determination concerns the country of origin of the Omni Double Block & Bleed Valve, a plug-type valve sold as the "OmniSeal DBB", which Omni is considering selling to the U.S. Government. We note that Omni is a party-at-interest within the meaning of 19 CFR 177.22(d)(1) and is entitled to request this final determination.

FACTS:

According to your submission and information provided by Omni, the "OmniSeal DBB" ("DBB") is a plug-type valve often used in fuel storage and disbursing systems. The DBB expanding plug valve is designed for applications where positive shut-off, verifiable zero leakage and double block and bleed capabilities are required. It is a single valve solution that simultaneously blocks both the upstream and downstream flow while allowing the user to verify seal integrity using a manual or automatic body bleed system.

The valve body of the DBB is purchased by Omni in India and imported into the United States. The valve body is usable as an isolation valve. At Omni's Oklahoma facility, Omni fabricates and adds an automatic differential thermal relief system ("ADTR") to the imported valve. The ADTR system is a multi-joint, multi-instrument system with various elbow, needle valves and pressure gauges. Depending on the needs of the customer, there can be 30 different ADTR system components. One example of an ADTR consists of 10 separate Swedgeloc connections, 6 separate tub sections, 4 small valves, 2 tees and one check valve. The ADTR system is procured and fabricated in the U.S. This process involves bending pipe and attaching the connections and fittings. Some customers require all joints on the ADTR system to be welded. After the ADTR system is fabricated, it is installed onto the valve body of Indian origin.

It is claimed the ADTR allows the valve to be bled in order to test seal integrity in conformance to a prevailing industry standard. It is at this point, that the finished article is capable of being used for applications which require double isolation and bleed functionality.

ISSUE:

Whether the OmniSeal DBB valves are considered to be products of the United States for purposes of U.S. Government procurement.

LAW AND ANALYSIS:

Under subpart B of part 177, 19 CFR 177.21 *et seq.*, which implements Title III of the Trade Agreements Act of 1979, as amended ("TAA"; 19 U.S.C. 2511 *et seq.*), CBP issues country of origin advisory rulings and final determinations on whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain "Buy American" restrictions in U.S. law or practice for products offered for sale to the U.S. Government.

Under the rule of origin set forth under 19 U.S.C. 2518(4)(B):

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

See also, 19 CFR 177.22(a).

In rendering advisory rulings and final determinations for purposes of U.S. Government procurement, CBP applies the provisions of subpart B of Part 177 consistent with the Federal Procurement Regulations. *See* 19 C.F.R. § 177.21. In this regard, CBP recognizes that the Federal Procurement Regulations restrict the U.S. Government's purchase of products to U.S.-made or designated country end products for acquisitions subject to the TAA. *See* 48 C.F.R. § 25.403(c)(1). The Federal Procurement Regulations define "U.S.-made end product" as:

[A]n article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

48 C.F.R. § 25.003.

In determining whether the combining of parts or materials constitutes a substantial transformation, the determinative issue is the extent of operations performed and whether the parts lose their identity and become an

integral part of the new article. *Belcrest Linens v. Unites States*, 573 F. Supp. 1149 (CIT 1983), *aff'd*, 741 F.2d 1368 (Fed. Cir. 1984). CBP considers the totality of the circumstances and makes such decisions on a case-by-case basis. The country of origin of the article's components, extent of the processing that occurs within a given country, and whether such processing renders a product with a new name, character, or use are primary considerations in such cases. Additionally, facts such as resources expended on product design and development, extent and nature of post-assembly inspection procedures, and worker skill required during the actual manufacturing process will be considered when analyzing whether a substantial transformation has occurred; however, no one such factor is determinative.

CBP's predecessor agency, the U.S. Customs Service ("Customs"), previously found imported valve components to have been substantially transformed when used in the manufacture of finished valves. *See* Headquarters Ruling Letter ("HRL") *729335* (April 18, 1986); *HRL 731828* (January 30, 1990); and *HRL 558008* (November 16, 1994). In *HRL 729335* dated April 18, 1986, Customs found that a substantial transformation had taken place when finished body castings and bonnet castings were combined in the U.S. with valve stems, discs, disc screws and handwheels to produce complete plumbing valves. In *HRL 731828* it was determined that the production of ball valves using foreign valve bodies and bonnets combined with U.S. origin balls, seats, stems, and various seals and washers effected substantial transformation of the foreign materials. Finally, in *HRL 558008* Customs considered the assembly of water system valves using imported valve body castings and other internal components. It was concluded that an assembly entailing the installation of various subassemblies, gaskets, bolts, seals and other parts resulted in substantial transformation of the imported components.

It is our conclusion that the assembly operations carried out by Omni on the imported components are closely comparable to those considered in the rulings cited. The number of parts assembled, including significant numbers of U.S.-origin parts, and the relative complexity of the operations carried out, indicate that the imported components have undergone a substantial transformation by reason of the operations carried out in the United States. Accordingly, the finished DBB will be considered a product of the United States for purposes of U.S. Government procurement in making this determination.

HOLDING:

On the basis of the information provided, we find that the assembly in the U.S. substantially transforms the components of foreign origin in DBB valves with an ADTR system. Therefore, the country of origin of Omni's DBB is the United States for purposes of U.S. Government procurement.

Notice of this final determination will be given in the Federal Register as required by 19 CFR 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 CFR 177.31, that CBP reexamine the matter anew and issue a new final determination. Any party-at-interest may, within 30 days after publication of the Federal Register notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

Sandra L. Bell,

Executive Director, Regulations and Rulings, Office of International Trade.

[FR Doc. 2013–15357 Filed 6–26–13; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5700–FA–04]

Announcement of Funding Awards for Lead-Based Paint Hazard Control, and Lead Hazard Reduction Demonstration Grant Programs for Fiscal Year (FY) 2013

AGENCY: Office of Healthy Homes and Lead Hazard Control, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in competitions for funding under the Office of Healthy Homes and Lead Hazard Control (OHHLHC) Lead-Based Paint Hazard Control, and Lead Hazard Reduction Demonstration Grant Program Notices of Funding Availability. This announcement contains the name and address of the award recipients and the amounts of awards under the Consolidated and Further Appropriations Act, 2013, and prior-year appropriations.

FOR FURTHER INFORMATION CONTACT: Matthew E. Ammon, Department of Housing and Urban Development, Office of Healthy Homes and Lead Hazard Control, Room 8236, 451 Seventh Street SW., Washington, DC 20410, telephone 202–402–4337. Hearing- and speech-impaired persons may access the number above via TTY by calling the toll free Federal Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: HUD announced the FY 2013 awards on May 23, 2013. These awards were the result of competitions posted on the Internet at Grants.gov on December 3, 2012, and amended on January 18, 2013, for the Lead Based Paint Hazard Control and the Lead Hazard Reduction Demonstration Programs (FR–5700–N–04). The purpose of the competitions was to award funding for grants for the Office of Healthy Homes and Lead Hazard Control Grant Programs.

Applications were scored and selected on the basis of selection criteria contained in this Notice. A total of $95,395,943 was awarded under the Consolidated and Further Continuing Appropriations Act, 2013 (Pub. L. 113–6, approved May 13, 2013) and prior year appropriations. In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987; 42 U.S.C. 3545), the Department is publishing the names, addresses, and the amount of these awards as follows:

1. Lead Based Paint Hazard Control Program

A total of $55,916,825.50 was awarded to 25 grantees for the Lead Based Paint Hazard Control Grant Program and an additional $4,475,885 was awarded to 23 of the 25 grantees for the Healthy Homes Initiative under the Consolidated Appropriations Act, 2012: County of Rock, 51 South Main Street, Janesville, WI 53545–3951, $2,500,000; City of Duluth, 411 West First Street, Room 407, Duluth, MN 55802–1197, $2,481,395; City of Moline, 619 16 Street, Moline, IL 61265–2121, $2,500,000; City of New London, 111 Union Street, New London, CT 06320–6634, $2,020,956; Louisville/Jefferson County Metro Government, 527 W. Jefferson Street, Louisville, KY 40202–2814, $2,402,849.50; City of Bridgeport, 999 Broad Street, Bridgeport, CT 06604–4060, $2,499,960; City of Henderson, P.O. Box 95050, 240 Water Street, Henderson, NV 89009–5050, $2,293,701; City of Knoxville, Tennessee, 400 Main Street, Knoxville, TN 37902–2405, $2,500,000; City of Boston, 26 Court Street, Boston, MA 02108–2501, $2,500,000; City of Austin, 1000 E. 11th Street, Suite 200, Austin, TX 78702–1945, $2,500,000; City of Winston- Salem, 100 E. First Street, Suite 423, Winston- Salem, NC 27101–4000, $2,500,000; State of Ohio—Ohio Department of Health, 246 North High Street, Columbus, OH 43215–2412, $2,500,000; County of Orange, 255 Main Street, Goshen, NY 10924–1619, $2,500,000; St. Clair County Intergovernmental Grants Department, 19 Public Square Suite 200, Belleville, IL 62220–1695, $1,635,563; Shelby County Government, 1075 Mullins Station Road, Memphis, TN 38134–7730, $2,300,000; Summit County Combined General Health District, 1100 Graham Road Circle, Stow, OH 44224–2992, $2,500,000; Salt Lake County,

2001 South State Street, Salt Lake City, UT 84190–2770, $2,500,000; State of Tennessee, 401 Church Street, L&C Tower 1st Floor, Nashville, TN 37243–1531, $2,500,000; City of Cedar Rapids, 101 First Street SE., Cedar Rapids, IA 52401–1205, $2,458,286; City of Lawrence, 200 Common Street, Lawrence, MA 01840–1515, $2,500,000; Mahoning County, 21 West Boardman Street, Youngstown, OH 44503–1427, $2,500,000; City of Lowell, 50 Arcand Drive, Lowell, MA 01852–1025, $2,500,000; City of Lynn Massachusetts, 3 City Hall Square, Lynn, MA 01901–1019, $2,500,000; Vermont Housing And Conservation Board, 58 East State Street, Montpelier, VT 05602–3044, $2,300,000; Rhode Island Housing and Mortgage Finance Corporation, 44 Washington Street, Providence, RI 02903–1721, $2,500,000.

2. Lead Hazard Reduction Demonstration Grant Program

A total of $35,003,232.95 was awarded to 12 grantees for the Lead Hazard Reduction Demonstration Grant Program under the Consolidated Appropriations Act, 2013: Redevelopment Authority of the City of Erie, 626 State Street, Room 107, Erie, PA 16501–1128, $3,000,000; City of Portland, 1120 SW. Fifth Avenue, Room 1250, Portland, OR 97204–1912, $3,000,000; Winnebago County Health Department, 401 Division Street, Rockford, IL 61104–2014, $2,995,529.64; City and County of San Francisco, Mayor Office of Housing, 1 South Van Ness Avenue, 5th Floor, San Francisco, CA 94103–1267, $3,000,000; Hennepin County, 701 4th Avenue, Suite 400, Minneapolis, MN 55415–1843, $3,000,000; Baltimore County, 400 Washington Avenue, Towson, MD 21204–0000, $3,000,000; Houston Department of Health and Human Services, 800 North Stadium Drive, 2nd Floor, Houston, TX 77054–1823, $3,000,000; City of Memphis, Division of Housing and Community Development, 701 N. Main Street, Memphis, TN 38107–2311, $3,000,000; City of San Antonio, 1400 South Flores, San Antonio, TX 78204–1617, $3,000,000; Malden Redevelopment Authority, City of Malden, 200 Pleasant Street, Malden, MA 02148–4829, $3,000,000; State of Connecticut Department of Social Services, 25 Sigourney Street, Hartford, CT 06106–5041, $3,000,000; City of Somerville, 93 Highland Avenue, Somerville, MA 02143–1740, $2,007,703.31.

Dated: June 21, 2013.

Jon L. Gant,

Director, Office of Healthy Homes and Lead Hazard Control.

[FR Doc. 2013–15431 Filed 6–26–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–IA–2013–N140; FXIA16710900000P5–123–FF09A30000]

Endangered Species; Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (ESA) prohibits activities with listed species unless Federal authorization is acquired that allows such activities.

DATES: We must receive comments or requests for documents on or before July 29, 2013.

ADDRESSES: Brenda Tapia, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280; or email *DMAFR@fws.gov*.

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2280 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES**. If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), along with Executive Order 13576, "Delivering an Efficient, Effective, and Accountable Government," and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken.

III. Permit Applications

A. Endangered Species

Applicant: Morani River Ranch, Uvalde, TX; PRT–49112A

The applicant requests amendment of their permit authorizing interstate and foreign commerce, export, and cull of excess from the captive herd maintained at their facility, to include barasingha (*Rucervus duvaucelii*), for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Sandy Blauvelt, Mansfield, TX; PRT–08619B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for radiated tortoise (*Astrochelys radiata)* to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Greater Baton Rouge Zoo, Baker, LA; PRT–692868

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the following families and species, to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Families

Bovidae
Cebidae
Cercopithecidae
Equidae
Felidae (*does not* include jaguar, margay, or ocelot)
Hylobatidae
Lemuridae
Rhinocerotidae
Tapiridae

Species

Maned wolf (*Chrysocyon brachyurus*)
Asian elephant (*Elephas maximus*)

Applicant: Zoo Atlanta, Atlanta, GA: PRT–740398

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the following families, to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Families

Bovidae
Cebidae
Cercopithecidae
Equidae
Felidae (does not include jaguar, margay or ocelot)
Hominidae
Rhinocerotidae
Alligatoridae
Boidae (does not include Mona boa or Puerto Rico boa)
Crocodylidae (does not include American crocodile)
Iguanidae
Varanidae
Cryptobranchidae
Testudinidae
Pelomedusidae
Emydidae

Applicant: Nick Sculac, Calhan, CO: PRT–05161B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the family Lemuridae and the species tiger (*Panthera tigris*), leopard (*Panthera pardus*), snow leopard (*Uncia uncia*), clouded leopard (*Neofelis nebulosa*), brown hyena (*Parahyaena brunnea*), and cheetah (*Acinonyx jubatus*), to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Wild Wonders Zoofari, Bonsall, CA; PRT–88777A

The applicant requests amendment of their permit to import one captive-bred male cheetah (*Acinonyx jubatus*) from the Hoedspruit Endangered Species Center instead of the De Wildt Cheetah Breeding Center, South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Memphis Zoo, Memphis, TN; PRT–052166

The applicant requests renewal of their permit for scientific research with two giant pandas (*Ailuropoda melanoleuca*) currently held under loan agreement with the Government of China and under the provisions of the USFWS Panda Policy. The proposed research will cover all aspects of behavior, reproductive physiology, genetics, nutrition, and animal health, and is a continuation of activities currently in progress. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: John Messmer, Shallotte, NC; PRT–08522B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the golden parakeet (*Guarouba guarouba*), Cuban parrot (*Amazona leucocephala*), and Vinaceous parrot (*Amazona vinacea*), to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Dickerson Park Zoo, Springfield, MO; PRT–693363

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the following families and species, to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Families

Bovidae
Cebidae
Canidae
Felidae (does not include jaguar, margay, or ocelot)
Hylobatidae
Lemuridae

Species

Asian elephant (*Elephas maximus*)

Applicant: Metro Richmond Zoo, Moseley, VA; PRT–806176

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the following families and species, to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Families

Hylobatidae
Lemuridae
Rhinocerotidae
Tapiridae

Species

Orangutan (*Pongo pygmaeus*)
Cheetah (*Acinonyx jubatus*)
Slender-horned gazelle (*Gazella leptoceros*)
Bengal tiger (*Panthera tigris tigris*)
Diana monkey (*Cercopithecus diana*)
Jackass penguin (*Spheniscus demersus*)

Applicant: Smithsonian National Zoological Park, Washington, DC; PRT–668353

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the following families, genera and species, to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Families

Bovidae
Canidae
Cebidae

Cercopithecidae
Cervidae
Equidae
Felidae (*does not* include jaguar, margay, or ocelot)
Hominidae
Hylobatidae
Indriidae
Lemuridae
Lorisidae
Macropodidae
Mustelidae
Rhinocerotidae
Suidae
Tapiridae
Tarsiidae
Ursidae
Viverridae
Accipitridae
Anatidae
Ardeidae
Columbidae
Cotingidae
Cracidae
Falconidae
Gruidae
Muscicapidae
Psittacidae (*does not* include thick-billed parrot)
Rallidae
Rheidae
Spheniscidae
Strigidae
Sturnidae (does *not* include *Aplonis pelzelni*)
Threskiornithidae
Bufonidae
Cryptobranchidae
Alligatoridae
Boidae (*does not* include Mona boa or Puerto Rico boa)
Crocodylidae (does *not* include the American crocodile)
Emydidae
Gekkonidae
Iguanidae
Pelomedusidae
Rhynchocephalidae
Testudinidae
Varanidae

Genera

Tragopan

Species

Asian elephant (*Elephas maximus*)

Applicant: Ross Popenoe, Redmond, WA; PRT–816505

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the Galapagos tortoise (*Chelonoidis nigra*) and radiated tortoise (*Astrochelys radiata*) to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Nashville Zoo, Nashville, TN; PRT–839465

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the following families and species, to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Families

Bovidae
Cebidae
Canidae
Cercopithecidae
Equidae
Felidae
Hylobatidae
Lemuridae
Macropodidae
Rhinocerotidae
Tapiridae
Cracidae
Gruidae
Psittacidae
Testudinidae

Species

Babirusa (*Babyrousa babyrussa*)
Rodrigues fruit bat (*Pteropus rodricensis*)
Lesser rhea (*Rhea pennata*)
Indian (Bengal) monitor (*Varanus bengalensis*)
Aruba island rattlesnake (*Crotalus unicolor*)

Applicant: Gibbon Conservation Center, Santa Clarita, CA; PRT–757434

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the family Hylobatidae, to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Joel Owens, Rosenberg, TX; PRT–7778B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the barasingha (*Rucervus duvaucelii*) and scimitar-horned oryx (*Oryx dammah*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Kenneth Siffert, West Islip, NY; PRT–09121B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the radiated tortoise (*Astrochelys radiata*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Multiple Applicants

The following applicants each request a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd in the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Brandon Turner, Mobile, AL; PRT–98930A

Applicant: Robert Solimena, Sacramento, CA; PRT–09087B

Applicant: Dennis Schemmel, Grimes, IA; PRT–09171B

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2013–15428 Filed 6–26–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCON06000–L16100000–DQ0000]

Notice of Resource Advisory Council Meetings for the Dominguez-Escalante National Conservation Area Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Dominguez-Escalante National Conservation Area (NCA) Advisory Council (Council) will meet as indicated below.

DATES: Meetings will be held: July 17, 2013; July 31, 2013; August 19, 2013; and August 21, 2013. All meetings will begin at 3 p.m. and will normally adjourn at 6 p.m. These meetings are in addition to the already-scheduled meeting on June 26, 2013, which was advertised through a separate notice. Any adjustments to the meetings will be advertised on the Dominguez-Escalante NCA Resource Management Plan (RMP) Web site, *http://www.blm.gov/co/st/en/nca/denca/denca_rmp.html.*

ADDRESSES: The meeting on July 17 will be held at the Two Rivers Convention Center, 159 Main Street, Grand Junction, CO. The meeting on July 31 will be held at the Delta County Courthouse, Room

234, 501 Palmer Street, Delta, CO 81416. The meeting on August 19 will be held at the Mesa County Courthouse Annex, Training Room A, 544 Rood, Grand Junction, CO 81501. The meeting on August 21 will be held at the Bill Heddles Recreation Center, 530 Gunnison River Drive, Delta, CO 81416.

FOR FURTHER INFORMATION CONTACT: Collin Ewing, Advisory Council Designated Federal Official, 2815 H Road, Grand Junction, CO 81506. Phone: (970) 244–3049. Email: *cewing@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, 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 10-member Council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with the RMP process for the Dominguez-Escalante NCA and Dominguez Canyon Wilderness.

Topics of discussion during the meeting may include informational presentations from various resource specialists working on the RMP, as well as Council reports on the following topics: Recreation, fire management, land-use planning process, invasive species management, travel management, wilderness, land exchange criteria, cultural resource management and other resource management topics of interest to the Council raised during the planning process.

These meetings are anticipated to occur monthly, and may occur as frequently as every two weeks during intensive phases of the planning process. Dates, times and agendas for additional meetings may be determined at future Council meetings, and will be published in the **Federal Register**, announced through local media and on the BLM's Web site for the Dominguez-Escalante planning effort, *www.blm.gov/co/st/en/nca/denca/denca_rmp.html*.

These meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will have time allocated at the middle and end of each meeting to hear public comments. Depending on the number of persons wishing to comment and time available, the time for individual, oral comments may be limited at the discretion of the chair.

Dated: June 21, 2013.

Helen M. Hankins,

BLM Colorado State Director.

[FR Doc. 2013–15386 Filed 6–26–13; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY–957400–13–L16100000–BJ0000]

Filing of Plat of Survey, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) is scheduled to file the plat of survey of the land described below thirty (30) calendar days from the date of this publication in the BLM Wyoming State Office, Cheyenne, Wyoming.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003.

SUPPLEMENTARY INFORMATION: This survey was executed at the request of the Bureau of Land Management and is necessary for the management of this land. The land surveyed is:

The plat and field notes representing the dependent resurvey of a portion of the Thirteenth Standard Parallel North, through Range 91 West, and a portion of the subdivisional lines, Township 52 North, Range 91 West, Sixth Principal Meridian, Wyoming, Group No. 877, was accepted June 21, 2013.

Copies of the preceding described plat and field notes are available to the public at a cost of $1.10 per page.

Dated: June 21, 2013.

Sonja S. Sparks,

Acting Chief Cadastral Surveyor, Division of Support Services.

[FR Doc. 2013–15398 Filed 6–26–13; 8:45 am]

BILLING CODE 4310–22–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 official filing of the survey plat listed below. The plat will be available for viewing at *http://www.glorecords.blm.gov*.

DATES: The plat described in this notice was filed on June 17, 2013.

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 supplemental plat of section 4 in Township 43 North, Range 4 West, New Mexico Principal Meridian, Colorado, was accepted on June 6, 2013, and filed on June 17, 2013.

Randy Bloom,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 2013–15385 Filed 6–26–13; 8:45 am]

BILLING CODE 4310–JB–P

INTERNATIONAL TRADE COMMISSION

[Docket No. 2962]

Certain Silicon Microphone Packages and Products Containing Same; Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Silicon Microphone Packages and Products Containing Same*, DN 2962; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under section 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)).

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Acting Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202)

205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at EDIS,[1] and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at USITC.[2] The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at EDIS.[3] Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to section 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Knowles Electronics, LLC on June 21, 2013. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain silicon microphone packages and products containing same. The complaint names as respondents GoerTek, Inc. of China and GoerTek Electronics, Inc. of CA. The complainant requests that the Commission issue a limited exclusion order and cease and desist orders.

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or section 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) Identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) Indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) Explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number ("Docket No. 2962") in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *Electronic Filing Procedures*[4]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on *EDIS*.[5]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: June 24, 2013.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–15436 Filed 6–26–13; 8:45 am]

BILLING CODE 7020–02–P

[1] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[2] United States International Trade Commission (USITC): *http://edis.usitc.gov.*

[3] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[4] Handbook for Electronic Filing Procedures: *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf.*

[5] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (NIJ) Docket No. 1626]

Autopsy Performance Criteria: Standards, Guidelines and Best Practices

AGENCY: National Institute of Justice, DOJ.

ACTION: Notice and request for comments.

SUMMARY: In an effort to obtain comments from interested parties, the U.S. Department of Justice, Office of Justice Programs, National Institute of Justice, Scientific Working Group for Medicolegal Death Investigation will make available to the general public a document entitled, "Autopsy Performance Criteria: Standards, Guidelines and Best Practices". The opportunity to provide comments on this document is open to coroner/medical examiner office representatives, law enforcement agencies, organizations, and all other stakeholders and interested parties. Those individuals wishing to obtain and provide comments on the draft document under consideration are directed to the following Web site: *http://www.swgmdi.org.*

DATES: Comments must be received on or before August 14, 2013.

FOR FURTHER INFORMATION CONTACT: Patricia Kashtan, by telephone at 202–353–1856 [**Note:** this is not a toll-free telephone number], or by email at *Patricia.Kashtan@usdoj.gov.*

Greg Ridgeway,

Acting Director, National Institute of Justice.

[FR Doc. 2013–15382 Filed 6–26–13; 8:45 am]

BILLING CODE 4410–18–P

NATIONAL SCIENCE FOUNDATION

Committee Management; Notice of Establishment

The Director of the National Science Foundation has determined that the establishment of the Proposal Review Panel for International and Integrative Activities is necessary and in the public interest in connection with the performance of duties imposed upon the National Science Foundation (NSF), by 42 U.S.C. 1861 *et seq.* This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Name of Committee: Proposal Review Panel for International and Integrative Activities (#2469).

Purpose: The Committee will provide advice to the National Science Foundation (NSF) on the merit of proposals requesting financial support of research, and research and education-related activities. The Committee will review proposals submitted to NSF under the purview of the Office of International and Integrative Activities (OIIA). The Committee will review and evaluate proposals, which may include site visits, and provide written recommendations on proposals as part of the selection process for awards. The Committee may evaluate and provide advice on the progress of awarded proposals.

Responsible NSF Official: Wanda E. Ward, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: 703/292–8040.

Dated: June 24, 2013.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2013–15384 Filed 6–26–13; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Committee Management; Renewals

The National Science Foundation (NSF) management officials having responsibility for the advisory committees listed below have determined that renewing these groups for another two years is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), by 42 U.S.C. 1861 et seq. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Committees

Advisory Committee for Biological Sciences, #1110
Advisory Committee for Cyberinfrastructure, #25150
Advisory Committee for Education and Human Resources, #1119
Advisory Committee for Engineering, #1170
Advisory Committee for Geosciences, #1755
Advisory Committee for International and Integrative Activities, #1373
Alan T. Waterman Award Committee, #1172
Proposal Review Panel for Atmospheric and Geospace Sciences, #10751
Proposal Review Panel for Behavioral and Cognitive Sciences, #10747
Proposal Review Panel for Biological Infrastructure, #10743
Proposal Review Panel for Earth Sciences, #1569
Proposal Review Panel for Emerging Frontiers in Biological Sciences, #44011
Proposal Review Panel for Environmental Biology, #10744
Proposal Review Panel for Geosciences, #1756
Proposal Review Panel for Integrative Organismal Systems, #10745
Proposal Review Panel for Molecular and Cellular Biosciences, #10746
Proposal Review Panel for Ocean Sciences, #10752
Proposal Review Panel for Research on Learning in Formal and Informal Settings, #59
Proposal Review Panel for Social, Behavioral and Economic Sciences, #1766
Proposal Review Panel for Social and Economic Sciences, #10748

Effective date for renewal is July 1, 2013. For more information, please contact Susanne Bolton, NSF, at (703) 292–7488.

Dated: June 24, 2013.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2013–15383 Filed 6–26–13; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

National Science Board; Sunshine Act Meetings; Notice

The National Science Board, pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of a teleconference meeting of the Executive Committee National Science Board.

AGENCY HOLDING MEETING: National Science Board.

DATE AND TIME: Wednesday, July 3, 2013 from 4:00–5:00 p.m.

SUBJECT MATTER: Discussion of legislative matters.

STATUS: Closed.

PLACE: This meeting will be held by teleconference originating at the National Science Board Office, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

UPDATES: Please refer to the National Science Board Web site *www.nsf.gov/nsb* for additional information. Meeting information and schedule updates (time, place, subject matter or status of meeting) may be found at *http://www.nsf.gov/nsb/notices/.*

AGENCY CONTACT: Peter Arzberger, contact at 703/292–8000 or *parzberg@nsf.gov.*

Ann Bushmiller,

NSB Senior Legal Counsel.

[FR Doc. 2013–15518 Filed 6–25–13; 4:15 pm]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0138: Docket No. 040–08903, License No. SUA–1471]

License Amendment Request for Homestake Mining Company of California, Grants Reclamation Project, Cibola County, New Mexico

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment request; opportunity to request a hearing and to petition for leave to intervene.

DATES: A request for a hearing or petition for leave to intervene must be filed by August 26, 2013.

ADDRESSES: Please refer to Docket ID [NRC–2013–0138] when contacting NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly available, using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0138. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: Carol.Gallagher@nrc.gov. For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System*

(ADAMS): You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS Accession Number for each document referenced is provided the first time the document is referenced. The license amendment request is available in ADAMS under Accession No. ML131070607.

• *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 Buckley, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6607, email: *John.Buckley@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC has received, by letter dated April 4, 2013, an update to the Homestake Mining Company of California's (Homestake's or Licensee's) Decommissioning and Reclamation Plan (DRP) for the Grants Reclamation Project located in Cibola, County, New Mexico. Upon NRC review and approval, the updated DRP will replace the previously approved reclamation plan referenced in License Condition 36 for NRC License SUA–1471. The updated DRP can be found in ADAMS under Accession Number ML131070607. Documents related to the application can be found in ADAMS under Docket Number 04008903.

An NRC administrative completeness review found the application acceptable for a technical review (ADAMS Accession No. ML13129A173). Prior to approving the updated DRP, the NRC will need to make the findings required by the Atomic Energy Act of 1954 as amended (the Act), and NRC's regulations. The NRC's findings will be documented in a safety evaluation report and an environmental assessment. The environmental assessment will be the subject of a subsequent notice in the **Federal Register**.

II. Opportunity to Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this **Federal Register** Notice, any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene with respect to the license amendment request. Requirements for hearing requests and petitions for leave to intervene are found in 10 CFR 2.309, "Hearing requests, Petitions to Intervene, Requirements for Standing, and Contentions." Interested persons should consult 10 CFR 2.309, which is available at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852 (or call the PDR at 1–800–397–4209 or 301–415–4737). The NRC's regulations are also accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.*

A petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition must provide the name, address, and telephone number of the petitioner and specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest.

A petition for leave to intervene must also include a specification of the contentions that the petitioner seeks to have litigated in the hearing. For each contention, the petitioner must provide a specific statement of the issue of law or fact to be raised or controverted, as well as a brief explanation of the basis for the contention. Additionally, the petitioner must demonstrate that the issue raised by each contention is within the scope of the proceeding and is material to the findings that the NRC must make to support the granting of a license amendment in response to the application. The petition must also include a concise statement of the alleged facts or expert opinions which support the position of the petitioner and on which the petitioner intends to rely at the hearing, together with references to the specific sources and documents on which the petitioner intends to rely. Finally, the petition must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact, including references to specific portions of the application for amendment that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application for amendment fails to contain information on a relevant matter as required by law, the identification of each failure, and the supporting reasons for the petitioner's belief. Each contention must be one that, if proven, would entitle the petitioner to relief.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with NRC regulations, policies, and procedures. The Atomic Safety and Licensing Board will set the time and place for any prehearing conferences and evidentiary hearings, and the appropriate notices will be provided.

Requests for hearing, petitions for leave to intervene, and motions for leave to file contentions after the deadline in 10 CFR 2.309(b) will not be entertained absent a determination by the presiding officer that the new or amended filing demonstrates good cause by satisfying the following three factors in 10 CFR 2.309(c)(1): (i) The information upon which the filing is based was not previously available; (ii) the information upon which the filing is based is materially different from information previously available; and (iii) the filing has been submitted in a timely fashion based on the availability of the subsequent information.

A State, local governmental body, Federally-recognized Indian tribe, or agency thereof may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by August 26, 2013. The petition must be filed in accordance with the filing instructions in section III of this document, and should meet the requirements for petitions for leave to intervene set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. A State, local governmental body, Federally-recognized Indian tribe, or agency

thereof may also have the opportunity to participate in a hearing as a nonparty under 10 CFR 2.315(c).

If a hearing is granted, any person who does not wish, or is not qualified, to become a party to the proceeding may, in the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of position on the issues, but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by August 26, 2013.

III. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov*, or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counselor representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html*. System requirements for accessing the E-Submittal server are detailed in the NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*.

Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with the NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital led certificate before a hearing request/petition for leave to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC's Web site at *http://www.nrc.gov/site-help/e-submittals/contact-us-eie.html* by email at *MSHOResource@nrc.gov*, or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8:00 a.m. and 8:00 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/EHD/*, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would

constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 20th day of June 2013.

Andrew Persinko,

Deputy Director, Decommissioning and Uranium Recovery Licensing Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. 2013–15414 Filed 6–26–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0299]

Standard Format and Content for Post-Shutdown Decommissioning Activities Report

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 1 of Regulatory Guide (RG) 1.185, "Standard Format and Content for Post-shutdown Decommissioning Activities Report." This guide describes a method that the NRC staff considers acceptable for use in complying with the Commission's requirements regarding the submission of a post-shutdown decommissioning activities report (PSDAR).

ADDRESSES: Please refer to Docket ID NRC–2012–0299 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publically available, using the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0299. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov*. For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select "ADAMS Public Documents" and then select "*Begin Web-based ADAMS Search.*" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced. Revision 1 of Regulatory Guide 1.185 is available in ADAMS under Accession No. ML13140A038. The regulatory analysis may be found in ADAMS under Accession No. ML13140A039.
- *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.

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FOR FURTHER INFORMATION CONTACT: James Shepherd, Office of Federal and State Materials and Environmental Management Programs, telephone: 301–415–6712, email: *James.Shepherd@nrc.gov* or Edward O'Donnell, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–251–7455, email: *Edward.Odonnell@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is issuing a revision to an existing guide in the NRC's "Regulatory Guide" series. This series was developed to describe and make available to the public information such as methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

The NRC issued Revision 1 of RG 1.185 with a temporary identification as Draft Regulatory Guide, DG–1272, in the **Federal Register** on December 19, 2012 (77 FR 75198), for a 60-day public comment period. The public comment period closed on February 19, 2013, and the NRC did not receive any comments. This revision updates RG 1.185 to reflect lessons learned since its original issuance in 2000. It identifies the type of information that the PSDAR must contain and establishes a standard format for the PSDAR that the NRC staff considers acceptable. The PSDAR is required of nuclear power plant licensees before or within two years of permanent cessation of operations. The report must include a description of the licensee's planned decommissioning activities, a schedule for the accomplishment of significant milestones, an estimate of expected costs, and a discussion of the licensee's evaluation of the environmental impacts associated with site-specific decommissioning activities.

Revision 1 of RG 1.185 represents the NRC staff's current guidance for future users and applications. Earlier versions of this regulatory guide, however, continue to be acceptable for those licensees whose licensing basis includes earlier versions of this regulatory guide, absent a licensee-initiated change to its licensing basis. Additional information on the NRC staff's use of this revised regulatory guide with respect to both current and future users and applications is set forth in the "Implementation" section of the revised regulatory guide.

II. Congressional Review Act

This regulatory guide is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

III. Backfitting and Issue Finality

Issuance of this final regulatory guide does not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) and is not otherwise inconsistent with the issue finality provisions in 10 CFR part 52. As discussed in the "Implementation" section of this regulatory guide, the NRC has no current intention to impose this regulatory guide on holders of current operating licenses or combined licenses.

Dated at Rockville, Maryland, this 19th day of June, 2013.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2013–15426 Filed 6–26–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0109]

Special Nuclear Material Control and Accounting Systems for Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a revision to Regulatory Guide (RG) 5.29, "Special Nuclear Material Control and Accounting Systems for Nuclear Power Plants." This regulatory guide provides guidance on recordkeeping and reporting requirements with respect to material control and accounting. This guide applies to all nuclear power plants.

ADDRESSES: Please refer to Docket ID NRC–2012–0109 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly available, using the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0109. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov*. For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select "ADAMS Public Documents" and then select "*Begin Web-based ADAMS Search*." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced. Revision 2 of Regulatory Guide 5.29, is available in ADAMS under Accession No. ML13051A421. The regulatory analysis may be found in ADAMS under Accession No. ML13051A418.
- *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.

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

FOR FURTHER INFORMATION CONTACT: Richard Jervey, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–251–7404; email: *Richard.Jervey@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is issuing a revision to an existing guide in the NRC's "Regulatory Guide" series. This series was developed to describe and make available to the public information such as methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

Revision 2 of RG 5.29 was issued with a temporary identification as Draft Regulatory Guide, DG–5028. This guide describes a method that the NRC staff considers acceptable to implement special nuclear material control and accounting system requirements for nuclear power plants. This guide applies to all nuclear power plants.

Part 74 of Title 10, of the *Code of Federal Regulations* (10 CFR), "Material Control and Accounting of Special Nuclear Material," Subpart B, "General Reporting and Recordkeeping Requirements," establishes the material control and accounting performance requirements for special nuclear material at nuclear power plants. The regulations at 10 CFR 74.11, "Reports of Loss or Theft or Attempted Theft or Unauthorized Production of Special Nuclear Material," require, in part, that nuclear power reactor licensees notify the NRC of any such events within 1 hour of discovery. The regulations at 10 CFR 74.13, "Material Status Reports," require nuclear power reactor licensees to submit material status reports for certain quantities of special nuclear material. The regulations at 10 CFR 74.15, "Nuclear Material Transaction Reports," require nuclear power reactor licensees to complete transaction reports when transferring, receiving, or making adjustments to specified quantities of special nuclear material. The regulations at 10 CFR 74.19, "Recordkeeping," require, in part, that nuclear power reactor licensees keep records that show the receipt, inventory (including location and unique identity), acquisition, transfer, and disposal of all special nuclear material in their possession. Additionally, 10 CFR 74.19 requires, in part, that licensees establish, maintain, and follow written material control and accounting procedures, and that they conduct physical inventories of special nuclear material at intervals not to exceed once every 12 months.

Regulatory Guide 5.29 endorses American National Standards Institute (ANSI) N15.8–2009, "Methods of Nuclear Material Control—Material Control Systems—Special Nuclear Material Control and Accounting Systems for Nuclear Power Plants." ANSI N15.8–2009 provides guidance on the control and accounting of (1) fuel rods that are separated from their parent assemblies; and (2) pieces of irradiated material that are separated as a result of fuel damage.

II. Additional Information

DG–5028, was published in the **Federal Register** on May 14, 2012 (77 FR 28407), for a 60-day public comment period. The public comment period closed on July 16, 2012. Public comments on DG–5028 and the staff responses to the public comments are available under ADAMS Accession Number ML13051A437.

This regulatory guide is a rule as designated in the Congressional Review Act (5 U.S.C. 801–808). However, OMB has not found it to be a major rule as designated in the congressional Review Act.

III. Congressional Review Act

This regulatory guide is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget (OMB) has not found it to be a major rule as defined in the Congressional Review Act.

IV. Backfitting and Issue Finality

This regulatory guide provides guidance on recordkeeping and reporting requirements with respect to material control and accounting, as set forth in 10 CFR part 74. The regulatory position held in this guidance demonstrates the method that the NRC staff finds acceptable for an applicant or licensee to meet the requirements of the underlying NRC regulations.

The issuance of the guidance in this regulatory guide is not backfitting, as that term is defined in 10 CFR 50.109 or inconsistent with the issue finality provisions in 10 CFR part 52, because information collection and reporting requirements with respect to material control and accounting are not included within the scope of the NRC's backfitting protections or part 52 issue finality provisions. Material control and accounting requirements are applicable to special nuclear material (SNM) licensees possessing SNM quantities greater than the part 74-specified threshold. Materials control and accounting are intended to ensure that SNM is not used, or diverted for use, in a manner that endangers public health and safety or the common defense and security. The requirements are focused

on the possession of SNM, and not with respect to its use in the operation of the nuclear power reactor. This is true even though the guidance in this regulatory guide is addressed to materials control and accounting at nuclear power plants. This regulatory guide reflects the physical and operational considerations of nuclear power reactors, which are different from other facilities possessing SNM above the part 74 specific threshold. The regulatory guide does not present more stringent guidance for materials licensees who are also power reactor licensees, as compared to guidance for those materials licensees who are not power reactor licensees. Therefore, the NRC does not regard the materials control and accounting requirements in part 74 as a general matter, or as applied to nuclear power reactors in the guidance of RG 5.29, as being within the scope of backfitting or issue finality provisions.

Applicants and potential applicants are not, with certain exceptions, protected by any issue finality provisions under part 52. This is because the issue finality provisions under part 52, with certain exclusions discussed below, were not intended to apply to every NRC action which substantially changes the expectations of current and future applicants. The exceptions to the general principle are whenever an applicant references a part 52 license (*e.g.*, an early site permit) and/or NRC regulatory approval (*e.g.*, a design certification rule) with specified issue finality provisions. However, the scope of issue finality provided extends only to the matters resolved in the license or regulatory approval. Early site permits and design certification rules do not address or resolve compliance with material control and accounting requirements in 10 CFR part 74. Therefore, no applicant referencing an ESP or DCR is protected by relevant issue finality provisions with respect to the material control and accounting matters addressed in this regulatory guide.

Dated at Rockville, Maryland, this 19th day of June, 2013.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2013–15427 Filed 6–26–13; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69831; File No. TP 13–03]

Order Granting Limited Exemptions From Exchange Act Rule 10b–17 and Rules 101 and 102 of Regulation M to ALPS ETF Trust, the VelocityShares Tail Risk Hedged Large Cap ETF, and the VelocityShares Volatility Hedged Large Cap ETF

June 21, 2013.

By letter dated June 21, 2013 (the "Letter"), as supplemented by conversations with the staff of the Division of Trading and Markets, counsel for ALPS ETF Trust (the "Trust") on behalf of the Trust, the VelocityShares Tail Risk Hedged Large Cap ETF and the VelocityShares Volatility Hedged Large Cap ETF (each a "Fund" and, collectively, the "Funds"), any national securities exchange on or through which shares issued by the Funds ("Shares") may subsequently trade, ALPS Distributors, Inc., and persons or entities engaging in transactions in Shares (collectively, the "Requestors") requested exemptions, or interpretive or no-action relief, from Rule 10b–17 of the Securities Exchange Act of 1934, as amended ("Exchange Act") and Rules 101 and 102 of Regulation M in connection with secondary market transactions in Shares and the creation or redemption of aggregations of Shares of at least 50,000 shares ("Creation Units").

The Trust is registered with the Commission under the Investment Company Act of 1940, as amended ("1940 Act"), as an open-end management investment company. Each Fund seeks to track the performance of a particular underlying index ("Index"), which for each Fund is comprised of shares of exchange traded products ("ETPs"). Each Fund's underlying index reflects the performance of a portfolio consisting of an exposure to a large cap equity portfolio, consisting of three underlying ETFs which track the S&P 500 index ("Underlying Large-Cap ETFs") and a volatility strategy to hedge "tail risk" events (which are market events that occur rarely but may have severe consequences when they do occur), consisting of two underlying ETFs which reflect leveraged or inverse positions on the S&P 500 VIX Short-Term Futures Index ("Underlying Volatility ETFs"). The underlying index, at each monthly rebalance, consists of an 85% allocation to the Underlying Large-Cap ETFs and a 15% allocation to the Underlying Volatility ETFs. The Funds intend to operate as "ETFs of ETFs" by seeking to track the performance of the respective underlying Index by investing at least 80% of their assets in the ETPs that comprise each Index. Each Fund also intends to enter into swap agreements designed to provide exposure to (a) the Underlying Volatility ETFs and/or (b) leveraged and/or inverse positions on the S&P 500 VIX Short-Term Futures Index directly. Except for the fact that the Funds will operate as ETFs of ETFs and intend to enter into swaps to obtain the leveraged and/or inverse exposure to the Underlying Volatility ETFs and/or the S&P 500 VIX Short-Term Futures Index, the Funds will operate in a manner identical to the ETPs that comprise each Index.

The Requestors represent, among other things, the following:

- Shares of the Funds will be issued by the Trust, an open-end management investment company that is registered with the Commission;
- The Trust will continuously redeem Creation Units at net asset value ("NAV") and the secondary market price of the Shares should not vary substantially from the NAV of such Shares;
- Shares of the Funds will be listed and traded on the NYSE Arca (the "Exchange") or other exchange in accordance with exchange listing standards that are, or will become, effective pursuant to Section 19(b) of the Exchange Act;
- All ETPs that are invested in by the Funds will meet all conditions set forth in a relevant class relief letter,[1] will have received individual relief from the Commission, or will be able to rely on individual relief even though they are not named parties;
- At least 70% of each Fund is comprised of component securities that meet the minimum public float and minimum average daily trading volume thresholds under the "actively-traded securities" definition found in Regulation M for excepted securities during each of the previous two months of trading prior to formation of the

[1] Letter from Catherine McGuire, Esq., Chief Counsel, Division of Market Regulation, to the Securities Industry Association Derivative Products Committee (November 21, 2005); Letter from Racquel L. Russell, Branch Chief, Division of Market Regulation, to George T. Simon, Esq., Foley & Lardner LLP (June 21, 2006); Letter from James A. Brigagliano, Acting Associate Director, Division of Market Regulation, to Stuart M. Strauss, Esq., Clifford Chance US LLP (October 24, 2006); Letter from James A. Brigagliano, Associate Director, Division of Market Regulation, to Benjamin Haskin, Esq., Willkie, Farr & Gallagher LLP (April 9, 2007); or Letter from Josephine Tao, Assistant Director, Division of Trading and Markets, to Domenick Pugliese, Esq., Paul, Hastings, Janofsky and Walker LLP (June 27, 2007).

relevant Fund; provided, however, that if the Fund has 200 or more component securities, then 50% of the component securities must meet the actively-traded securities thresholds;

- All the components of each Index will have publicly available last sale trade information;
- The intra-day proxy value of each Fund per share and the value of each Index will be publicly disseminated by a major market data vendor throughout the trading day;
- On each business day before the opening of business on the Exchange, the Funds' custodian, through the National Securities Clearing Corporation, will make available the list of the names and the numbers of securities and other assets of each Fund's portfolio that will be applicable that day to creation and redemption requests;
- The Exchange or other market information provider will disseminate every 15 seconds throughout the trading day through the facilities of the Consolidated Tape Association an amount representing on a per-share basis, the current value of the securities and cash to be deposited as consideration for the purchase of Creation Units;
- The arbitrage mechanism will be facilitated by the transparency of the Funds' portfolio and the availability of the intra-day indicative value, the liquidity of securities and other assets held by the Funds, the ability of the Funds and arbitrageurs to acquire such securities, as well as the arbitrageurs' ability to create workable hedges;
- The Funds will invest solely in liquid securities;
- The Funds will invest in securities that will facilitate an effective and efficient arbitrage mechanism and the ability to create workable hedges;
- The Requestors believe that arbitrageurs are expected to take advantage of price variations between each Fund's market price and its NAV; and
- A close alignment between the market price of Shares and each Fund's NAV is expected.

Regulation M

While redeemable securities issued by an open-end management investment company are excepted from the provisions of Rule 101 and 102 of Regulation M, the Requestors may not rely upon that exception for the Shares.[2]

[2] ETFs operate under exemptions from the definitions of "open-end company" under Section 5(a)(1) of the 1940 Act and "redeemable security" under Section 2(a)(32) of the 1940 Act. The ETFs and their securities do not meet those definitions.

Rule 101 of Regulation M

Generally, Rule 101 of Regulation M is an anti-manipulation rule that, subject to certain exceptions, prohibits any "distribution participant" and its "affiliated purchasers" from bidding for, purchasing, or attempting to induce any person to bid for or purchase any security which is the subject of a distribution until after the applicable restricted period, except as specifically permitted in the rule. Rule 100 of Regulation M defines "distribution" to mean any offering of securities that is distinguished from ordinary trading transactions by the magnitude of the offering and the presence of special selling efforts and selling methods. The provisions of Rule 101 of Regulation M apply to underwriters, prospective underwriters, brokers, dealers, and other persons who have agreed to participate or are participating in a distribution of securities. The Shares are in a continuous distribution and, as such, the restricted period in which distribution participants and their affiliated purchasers are prohibited from bidding for, purchasing, or attempting to induce others to bid for or purchase extends indefinitely.

Based on the representations and facts presented in the Letter, particularly that the Trust is a registered open-end management investment company that will continuously redeem at the NAV Creation Units of Shares of the Funds and that a close alignment between the market price of Shares and the Funds' NAV is expected, the Commission finds that it is appropriate in the public interest, and consistent with the protection of investors, to grant the Trust an exemption from Rule 101 of Regulation M, pursuant to paragraph (d) of Rule 101 of Regulation M with respect to transactions in the Funds as described in the Letter, thus permitting persons who may be deemed to be participating in a distribution of Shares of the Funds to bid for or purchase such Shares during their participation in such distribution.[3]

Rule 102 of Regulation M

Rule 102 of Regulation M prohibits issuers, selling security holders, and any affiliated purchaser of such person from bidding for, purchasing, or attempting to induce any person to bid for or purchase a covered security during the applicable restricted period in connection with a distribution of securities effected by or on behalf of an issuer or selling security holder.

Based on the representations and facts presented in the Letter, particularly that the Trust is a registered open-end management investment company that will redeem at the NAV Creation Units of Shares of the Funds and that a close alignment between the market price of Shares and the Funds' NAV is expected, the Commission finds that it is appropriate in the public interest, and consistent with the protection of investors, to grant the Trust an exemption from Rule 102 of Regulation M, pursuant to paragraph (e) of Rule 102 of Regulation M with respect to transactions in the Funds as described in the Letter, thus permitting the Funds to redeem Shares of the Funds during the continuous offering of such Shares.

Rule 10b–17

Rule 10b–17, with certain exceptions, requires an issuer of a class of publicly traded securities to give notice of certain specified actions (for example, a dividend distribution) relating to such class of securities in accordance with Rule 10b–17(b). Based on the representations and facts in the Letter, in particular that the concerns that the Commission raised in adopting Rule 10b–17 generally will not be implicated if exemptive relief, subject to the conditions below, is granted to the Trust because market participants will receive timely notification of the existence and timing of a pending distribution,[4] we find that it is appropriate in the public interest, and consistent with the protection of investors, to grant the Trust a conditional exemption from Rule 10b–17.

Conclusion

It is hereby ordered, pursuant to Rule 101(d) of Regulation M, that the Trust is exempt from the requirements of Rules 101 with respect to transactions in the Shares of the Funds as described in the Letter, thus permitting persons who may be deemed to be participating in a distribution of Shares of the Funds to bid for or purchase such Shares during their participation in such distribution as described in the Letter.

It is further ordered, pursuant to Rule 102(e) of Regulation M, that the Trust is exempt from the requirements of Rule

[3] Additionally, we confirm the interpretation that a redemption of Creation Units of Shares of the Funds and the receipt of securities in exchange by a participant in a distribution of Shares of the Funds would not constitute an "attempt to induce any person to bid for or purchase, a covered security during the applicable restricted period" within the meaning of Rule 101 of Regulation M and therefore would not violate that rule.

[4] We also note that timely compliance with Rule 10b–17(b)(1)(v)(a) and (b) would be impractical in light of the nature of the Funds. This is because it is not possible for the Funds to accurately project ten days in advance what dividend, if any, would be paid on a particular record date.

102 with respect to transaction in the Shares of the Funds as described in the Letter, thus permitting the Funds to redeem Shares of the Funds during the continuous offering of such Shares as described in the Letter.

It is further ordered, pursuant to Rule 10b–17(b)(2), that the Trust, subject to the conditions contained in this order, is exempt from the requirements of Rule 10b–17 with respect to transactions in the Shares of the Funds as described in the Letter.

This exemption from Rule 10b–17 is subject to the following conditions:

- The Trust will comply with Rule 10b–17 except for Rule 10b–17(b)(1)(v)(a) and (b); and
- The Trust will provide the information required by Rule 10b–17(b)(1)(v)(a) and (b) to the Exchange as soon as practicable before trading begins on the ex-dividend date, but in no event later than the time when the Exchange last accepts information relating to distributions on the day before the ex-dividend date.

This exemption is subject to modification or revocation at any time the Commission determines that such action is necessary or appropriate in furtherance of the purposes of the Exchange Act. Persons relying upon this exemption shall discontinue transactions involving the Shares of the Funds under the circumstances described above and in the Letter in the event that any material change occurs with respect to any of the facts presented or representations made by the Requestors. In addition, persons relying on this exemption are directed to the anti-fraud and anti-manipulation provisions of the Exchange Act, particularly Sections 9(a) and 10(b), and Rule 10b–5 thereunder. Responsibility for compliance with these and any other applicable provisions of the federal securities laws must rest with the persons relying on this exemption. This order should not be considered a view with respect to any other question that the proposed transactions may raise, including, but not limited to the adequacy of the disclosure concerning, and the applicability of other federal or state laws to, the proposed transactions.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[5]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2013–15363 Filed 6–26–13; 8:45 am]

BILLING CODE 8011–01–P

[5] 17 CFR 200.30–3(a)(6) and (9).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69824; File No. SR–NSCC–2013–08]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, as Modified by Amendment No. 1, To Expand the Analytic Reporting Service To Permit Increased Source Data

June 21, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 7, 2013, National Securities Clearing Corporation ("NSCC") 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 primarily by NSCC. On June 20, 2013, NSCC filed Amendment No. 1 to the proposed rule change.[3] NSCC filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii)[4] of the Act and Rule 19b–4(f)(4)[5] thereunder, so that the proposed rule change, as modified by Amendment No. 1, was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to Rule 57 of the Rules & Procedures ("Rules") of NSCC with respect to enhancements to the Analytic Reporting Service of the Insurance and Retirement Processing Services ("I&RS").

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Background

On December 10, 2010, NSCC filed with the Commission proposed rule change SR–NSCC–2010–18[6] to add a new I&RS service called the Analytic Reporting Service ("Service"). In that filing, NSCC described how the Service aggregates transaction data to produce monthly reports relating to the insurance industry markets (such reports, collectively, "Analytics Data"). To create Analytics Data, a data feed from I&RS's Financial Activity Reporting ("FAR") service is transmitted to the Service on a periodic basis. FAR is an NSCC I&RS service that provides I&RS members the ability to transmit insurance transaction data and information between themselves. I&RS members submitting transaction data through FAR can only do so where the counterparty to such transaction is also an I&RS member. By accessing and applying the FAR data feed, the Service uses as its source data actual transaction information, rather than survey results, which gives subscribers of the Service a more efficient, cost effective, and timely benchmarking and other relevant information mechanism, than other similar aggregating services.

However, because the Service's source data is currently limited solely to transaction data transmitted through FAR, the benefits of the Service cannot be applied to other data sources. Subscribers of the Service, and prospective subscribers, have requested that NSCC enhance the Service to allow for submission of additional source data in order that the Service may provide a more complete view of subscribers' own business and of the insurance industry generally.

2. The Proposed Rule Change

The proposed rule change will expand the Service to permit for increased source data. Under the proposed rule change, I&RS members may submit their transaction data to NSCC, even where the counterparty to a transaction is not an existing I&RS member, and the proposed rule change will also permit for submission of transaction data by parties that are not existing members of NSCC. Under the proposed rule change, in addition to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 modified Sections 12(d) and (e) of Exhibit 5 to the original proposed rule change filing to (i) reflect the application of those sections to both NSCC Members and Limited Members, and (ii) correct a grammatical error.

[4] 15 U.S.C. 78s(b)(3)(A)(iii).

[5] 17 CFR 240.19b–4(f)(4).

[6] Release No. 34–63604 (Dec. 23, 2010), 75 FR 82115 (Dec. 29, 2010).

transactions submitted through FAR, the Service will contain a "storage data" functionality that will permit I&RS members, and parties that are not existing members of NSCC, to submit transaction data directly to the Service.

In connection with the proposed storage data functionality, the proposed rule change will specify that the Service is a service offering of NSCC to members on their behalf and that NSCC will not use or disclose the storage data received by NSCC other than for purposes of providing Analytics Data and other purposes permitted under applicable law. In addition, the proposed rule change will expand the data, to include all source data, which I&RS members may preclude from disclosure and attribution in connection with earnings reporting laws compliance. Similarly, the proposed rule change will permit I&RS members to prevent the attribution to them of all of their source data under the Service's existing "Opting-Out" provision.

The proposed rule change will contain the following representations to be made by each I&RS member that submits storage data to NSCC:

- That the submitter of the storage data has the right to submit such storage data to NSCC;
- That either:
  - no third party consents are required in connection with submission to NSCC of any storage data, or
  - if any third party consents are required in connection with submission to NSCC of any storage data, the submitter has obtained all such third party consents;
- That the submitter has the right to allow NSCC to use such storage data in the creation of the Analytics Data that shall be reported to third parties; and
- That either:
  - the submitter has made the notices, and offered the rights, to individuals with regard to the submitter's submission of such storage data to NSCC for use in preparing the Analytics Data that is reported to third parties, as required by applicable privacy regulations under the Gramm-Leach-Bliley Act; or
  - if the submitter is not the appropriate party, the submitter has ensured that the appropriate party has made the notices, and offered the rights, to individuals with regard to such submitter's submission of such storage data to NSCC for use in preparing the Analytics Data that is reported to third parties, as required by applicable privacy regulations under Gramm-Leach-Bliley Act.

The proposed rule change will also contain an indemnification provision to protect NSCC from any losses it may sustain in reliance upon the above representations. The proposed rule change will specify that because the Analytics Data is based solely upon source data provided to NSCC, NSCC makes no representation or warranty that any of the Analytics Data accurately reflects past, present or future market performance, nor does NSCC guarantee the adequacy, accuracy, timeliness or completeness of any Analytics Data or its fitness for any purpose, and that NSCC will not be subject to any damages or liabilities whatsoever with respect to any errors, omissions or delays in any Analytics Data nor for any party's use of or reliance upon any Analytics Data.

As a result of these proposed rule changes, the Service will provide more complete information to subscribers about their own businesses and business relationships, and benchmarking information about the overall market.

3. Statutory Basis

NSCC believes that the proposed rule change is consistent with the requirements of the Act, as amended, specifically Section 17A(b)(3)(F),[7] and the rules and regulations thereunder applicable to NSCC, because the change will permit I&RS members of NSCC to enhance their monitoring and analysis of their businesses, and accordingly, fosters [sic] cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.

(B) Clearing Agency's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change will result in more robust insurance market data, delivering a better understanding of performance relative to user peer groups and providing business decision support, which NSCC believes will enhance competition to the benefit of investors and beneficiaries.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule changes [sic] have not yet been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

[7] 15 U.S.C. 78q–1(b)(3)(F).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and paragraph (f) of Rule 19b-4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as modified, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File No. SR–NSCC–2013–08 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 No. SR–NSCC–2013–08. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for

inspection and copying at the principal office of NSCC and on NSCC's Web site at *http://dtcc.com/legal/rule_filings/nscc/2013.php.*

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NSCC–2013–08 and should be submitted on or before July 18, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2013–15349 Filed 6–26–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69828; File No. SR–ISE–2013–40]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Penny Pilot Program

June 21, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 13, 2013, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE proposes to amend its rules relating to a pilot program to quote and to trade certain options in pennies ("Penny Pilot Program") and to revise the provision describing how the Exchange specifies which option classes trade in the Penny Pilot Program. The text of the proposed rule change is available on the Exchange's Web site at *www.ise.com,* at the Exchange's principal office and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

Under the Penny Pilot Program, the minimum price variation for all participating options classes, except for the Nasdaq-100 Index Tracking Stock ("QQQQ"), the SPDR S&P 500 Exchange Traded Fund ("SPY") and the iShares Russell 2000 Index Fund ("IWM"), is $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY and IWM are quoted in $0.01 increments for all options series. The Penny Pilot Program is currently scheduled to expire on June 30, 2013.[3] The Exchange proposes to extend the time period of the Penny Pilot Program through December 31, 2013, and to provide revised dates for adding replacement issues to the Penny Pilot Program. The Exchange proposes that any Penny Pilot Program issues that have been delisted may be replaced on the second trading day following July 1, 2013. The replacement issues will be selected based on trading activity for the six month period beginning December 1, 2012, and ending May 31, 2013. This filing does not propose any substantive changes to the Penny Pilot Program: all classes currently participating will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the increase in quote traffic.

With this proposed rule change, the Exchange also proposes to revise the provision describing how the Exchange specifies which option classes trade in the Penny Pilot Program. Currently, the rule requires that the Exchange specify which options trade in the Penny Pilot Program and in what increments in a Regulatory Information Circular that has been filed with the Commission pursuant to Rule 19b–4 under the Exchange Act and distributed to its Members. The Exchange now proposes to revise that provision to indicate information regarding the option classes trading in the Penny Pilot Program will be communicated to Members through a Market Information Circular. The Exchange will also post on its Web site the replacement option classes that are selected for the Penny Pilot Program.[4] By revising this provision, the Exchange will eliminate the requirement to file a Regulatory Information Circular with the Commission pursuant to Rule 19b–4.

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the "Exchange Act") for this proposed rule change is found in Section 6(b)(5), in that the proposed rule change is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the proposed rule change, which extends the Penny Pilot Program for an additional six months, will enable public customers and other market participants to express their true prices to buy and sell options for the benefit of all market participants. In addition, the revision to how the Exchange will specify which options participate in the Penny Pilot Program promotes just and equitable principles of trade since it clarifies how Members and other market participants will be made aware of which option classes are trading in the Penny Pilot Program and eliminates an unnecessary requirement that the Exchange specify which option classes are in the Penny Pilot Program through a Regulatory Information Circular that has been filed with the Commission pursuant to Rule 19b–4 under the Exchange Act. The requirement to file the Regulatory Information Circular is

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 68424 (December 13, 2012), 77 FR 75241 (December 19, 2012) (SR–ISE–2012–95).

[4] This revision is consistent with rules at most of the other options exchanges participating in the Penny Pilot Program: BATS Exchange, Inc. Rule 21.5, Interpretations and Policies .01; NASDAQ OMX BX, Inc. Chapter VI, Section 5(3); NASDAQ OMX PHLX, Inc. Rule 1034(a)(i)(B); The NASDAQ Stock Market LLC Chapter VI, Section 5; NYSE MKT LLC Rule 960NY, Commentary .02; and NYSE Arca, Inc. Rule 6.72, Commentary .02.

unnecessary because most other options exchanges do not require such a submission to the Commission.[5]

B. Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change does not impose any burden on competition. Specifically, the Exchange believes that, by extending the expiration of the Penny Pilot Program, the proposed rule change will allow for further analysis of the Penny Pilot Program and a determination of how the Penny Pilot Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

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 written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[6] and Rule 19b–4(f)(6) thereunder.[7] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6)(iii) thereunder.[9]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing.[10] However, pursuant to Rule 19b–4(f)(6)(iii),[11] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program.[12] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–ISE–2013–40 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2013–40. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2013–40 and should be submitted on or before July 18, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2013–15366 Filed 6–26–13; 8:45 am]

BILLING CODE 8011–01–P

[5] Only BOX Options Exchange LLC (at Rule 7050(b)) requires that a Regulatory Information Circular specifying which options trade in the Penny Pilot Program be submitted to the Commission.

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 17 CFR 240.19b–4(f)(6).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6)(iii).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] See Securities Exchange Act Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca–2009–44). *See also supra* note 3.

[13] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69818; File No. SR–BX–2013–041]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 4120 To Adopt a Modification in the Process for Initiating Trading of a Security That Is the Subject of a Trading Halt or Pause on BX

June 21, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 14, 2013, NASDAQ OMX BX, Inc. ("BX" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 4120 to adopt a modification in the process for initiating trading of a security that is the subject of a trading halt or pause on BX. The text of the proposed rule change is also available on the Exchange's Web site at *http://nasdaqomxbx.cchwallstreet.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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In 2012, The NASDAQ Stock Market LLC ("NASDAQ") modified its process for commencing trading of a security that is the subject of an initial public offering on NASDAQ by allowing market participants to enter orders to be held in an undisplayed state until the commencement of the Display-Only Period that occurs prior to the IPO.[3] NASDAQ recently proposed a similar change with regard to entering orders prior to the end of other trading halts or pauses on NASDAQ.[4] BX is proposing to make a similar change with regard to entering orders prior to the end of trading halts or pauses on BX. Rule 4120(a) describes the circumstances under which BX has the authority to initiate a trading halt. As detailed in Rule 4120(a), the specific bases for a halt include the following:

- A halt when a security listed on another national securities exchange is halted to permit dissemination of news (Rule 4120(a)(2)) or due to an order imbalance or influx (Rule 4120(a)(3));
- A halt with respect to an index warrant when deemed appropriate in the interests of a fair and orderly market and to protect investors (Rule 4120(a)(8));
- A halt in a Derivative Securities Product (as defined in Rule 4120(b)(4)(A)) for which a net asset value ("NAV") or a Disclosed Portfolio is disseminated if the Exchange becomes aware that the NAV or Disclosed Portfolio is not being disseminated to all market participants at the same time (Rule 4120(a)(10));
- A trading pause with respect to stocks that are not subject to the Limit Up-Limit Down Plan[5] and for which the primary listing market has issued an individual stock trading pause (Rule 4120(a)(11)); and
- A trading halt in a Derivative Security Product traded pursuant to unlisted trading privileges for which a "Required Value," such as an intraday indicative value or disclosed portfolio, is not being disseminated, under the conditions described in Rule 4120(b).[6]

Under the current process, quotes and orders in a halted security may not be entered until the resumption of trading. However, BX believes that the quality of its process for commencing trading in the halted security would be enhanced by allowing market participants to enter orders to be held but not displayed until the resumption of trading.[7] Specifically, BX believes that this change will provide for a greater number of orders being entered prior to commencement of trading, resulting in a higher level of order interaction at the resumption of trading.

Orders entered in this manner will be held in a suspended state until the resumption of trading, at which time they will be entered into the system. Market participants may cancel orders entered in this manner in the same way they would cancel any other order. Orders entered prior to the resumption of trading will be rejected unless they are designated for holding. Specifically, the orders will be entered into the continuous market once trading resumes.[8]

[3] Securities Exchange Act Release No. 66652 (March 23, 2012), 77 FR 13129 (March 29, 2012) (SR–NASDAQ–2012–038).

[4] Securities Exchange Act Release No. 69536 (May 13, 2013), 78 FR 29187 (May 17, 2013) (SR–NASDAQ–2013–073).

[5] Plan to Address Extraordinary Market Volatility Submitted to the Commission Pursuant to Rule 608 of Regulation NMS under the Act, Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012).

[6] Rule 4120 includes additional bases for halting securities listed on the Exchange; however, the Exchange's rules governing listing are not operative at this time. The additional bases include: a halt to permit the dissemination of material news with respect to a security listed on the Exchange (Rule 4120(a)(1)); a halt in an American Depository Receipt ("ADR") or other security listed on the Exchange, when the security listed on the Exchange or the security underlying the ADR is listed on or registered with another national or foreign securities exchange or market, and the regulatory authority overseeing such exchange or market halts trading in such security for regulatory reasons (Rule 4120(a)(4)); a halt when the Exchange requests from the issuer information relating to material news or the issuer's ability to meet Exchange listing qualification requirements, or any other information necessary to protect investors and the public interest (Rule 4120(a)(5)); a halt in a security listed on the Exchange when extraordinary market activity in the security is occurring, the Exchange determines that the activity is likely to have a material effect on the market for the security, and the Exchange believes that the activity is caused by the misuse or malfunction of an electronic quotation, communication, reporting, or execution system (Rule 4120(a)(6)); a halt in a series of Portfolio Depository Receipts, Index Fund Shares or Managed Fund Shares listed on the Exchange if the Intraday Indicative Value or the index value applicable to that series is not being disseminated as required (Rule 4120(a)(9)); and a halt trading in a security listed on the Exchange if the security fails to comply with Rule 5550(d) (requiring a minimum bid price of at least $0.25 per share).

[7] Because the orders would be held in an undisplayed state, the change would not implicate BX Rule 3340 or FINRA Rule 5260, which prohibit transactions, publication of quotations, or publication of indications of interest during a trading halt.

[8] Orders entered and held during the halt period will be entered into the continuous market in the order in which they were received. However, such orders will be entered contemporaneously with any

Continued

2. Statutory Basis

BX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[9] in general, and with Section 6(b)(5) of the Act,[10] in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Specifically, BX believes that the change to allow entry of quotes and orders for holding during a trading halt will provide for a greater number of orders being entered prior to commencement of trading, resulting in a higher level of order interaction in the re-opening process. Thus, BX believes that the change will remove impediments to and perfect the mechanism of a free and open market.

B. Self-Regulatory Organization's Statement on Burden on Competition

BX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Specifically, BX believes that this change will provide for a greater number of orders being entered prior to commencement of trading, resulting in a higher level of order interaction. BX believes that this change will promote competition by enhancing the attractiveness of BX as a trading venue through higher order fill rates and more complete price discovery. Moreover, because the change will not affect the availability or price of goods or services offered by BX or others, it will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

orders received through order entry ports after the halt is terminated. Thus, the relative priority of orders received during the halt and orders received through order entry ports after the halt is terminated will be a function of the duration of system processing associated with each particular order. As a result, orders received during the halt will not automatically have priority over orders received at the conclusion of the halt.

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and subparagraph (f)(6) of Rule 19b–4 thereunder.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act.

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–BX–2013–041 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2013–041. 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 publicly available. All submissions should refer to File Number SR–BX–2013–041 and should be submitted on or before July 18, 2013.

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2013–15346 Filed 6–26–13; 8:45 am]

BILLING CODE 8011–01–P

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69820; File No. SR–NYSEMKT–2013–52]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Operation of Its Supplemental Liquidity Providers Pilot Until the Earlier of the Securities and Exchange Commission's Approval To Make Such Pilot Permanent or January 31, 2014

June 21, 2013.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the "Act") [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on June 17, 2013, NYSE MKT LLC ("NYSE MKT" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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 '') proposes to extend the operation of its Supplemental Liquidity Providers Pilot ("SLP Pilot" or "Pilot") (See Rule 107B–Equities), currently scheduled to expire on July 31, 2013, until the earlier of the Securities and Exchange Commission's ("Commission") approval to make such Pilot permanent or January 31, 2014. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to extend the operation of its SLP Pilot,[4] currently scheduled to expire on July 31, 2013, until the earlier of Commission approval to make such Pilot permanent or January 31, 2014.

Background[5]

In October 2008, the New York Stock Exchange LLC ("NYSE") implemented significant changes to its market rules, execution technology and the rights and obligations of its market participants all of which were designed to improve execution quality on the NYSE. These changes were all elements of the NYSE's and the Exchange's enhanced market model referred to as the "New Market Model" ("NMM Pilot").[6] The NYSE SLP Pilot was launched in coordination with the NMM Pilot (*see* NYSE Rule 107B).

As part of the NMM Pilot, NYSE eliminated the function of specialists on the Exchange creating a new category of market participant, the Designated Market Maker or "DMM."[7] Separately, the NYSE established the SLP Pilot, which established SLPs as a new class of market participants to supplement the liquidity provided by DMMs.[8]

The NYSE adopted NYSE Rule 107B governing SLPs as a six-month pilot program commencing in November 2008. This NYSE pilot has been extended several times, most recently to July 31, 2013.[9] The NYSE is in the process of requesting an extension of their SLP Pilot until January 31, 2014 or until the Commission approves the pilot as permanent.[10] The extension of the NYSE SLP Pilot until January 31, 2014 runs parallel with the extension of the NMM pilot until January 31, 2014, or until the Commission approves the NMM Pilot as permanent.

Proposal To Extend the Operation of the NYSE MKT SLP Pilot

The Exchange established the SLP Pilot to provide incentives for quoting, to enhance competition among the existing group of liquidity providers, including the DMMs, and add new competitive market participants. NYSE MKT Rule 107B—Equities is based on NYSE Rule 107B. NYSE MKT Rule 107B—Equities was filed with the Commission on December 30, 2009, as a "me too" filing for immediate effectiveness as a pilot program.[11] The Exchange's SLP Pilot is scheduled to end operation on July 31, 2013 or such earlier time as the Commission may determine to make the rules permanent.

The Exchange believes that the SLP Pilot, in coordination with the NMM Pilot and the NYSE SLP Pilot, allows the Exchange to provide its market participants with a trading venue that utilizes an enhanced market structure to encourage the addition of liquidity, facilitate the trading of larger orders more efficiently and operates to reward aggressive liquidity providers. As such, the Exchange believes that the rules governing the SLP Pilot (NYSE MKT Rule 107B—Equities) should be made permanent.

Through this filing the Exchange seeks to extend the current operation of the SLP Pilot until January 31, 2014, in order to allow the Exchange to formally submit a filing to the Commission to convert the SLP Pilot rule to a permanent rule. The Exchange is currently preparing a rule filing seeking permission to make the Exchange's SLP Pilot permanent, but does not expect that filing to be completed and approved by the Commission before July 31, 2013.[12]

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the "Act") for this proposed rule change is the requirement under Section 6(b)(5) that

[4] *See* Securities Exchange Act Release No. 61308 (January 7, 2010), 75 FR 2573 (January 15, 2010) (SR–NYSEAmex–2009–98) (establishing the NYSE Amex Equities SLP Pilot). *See also* Securities Exchange Act Release Nos. 61841 (April 5, 2010), 75 FR 18560 (April 12, 2010) (SR–NYSEAmex–2010–33) (extending the operation of the SLP Pilot to September 30, 2010); 62814 (September 1, 2010), 75 FR 54671 (September 8, 2010) (SR–NYSEAmex–2010–88) (extending the operation of the SLP Pilot to January 31, 2011); 63615 (December 29, 2010), 76 FR 611 (January 5, 2011) (SR–NYSEAmex–2010–123) (extending the operation of the SLP Pilot to August 1, 2011); 64772 (June 29, 2011), 76 FR 39455 (July 6, 2011) (SR–NYSEAmex–2011–44) (extending the operation of the SLP Pilot to January 31, 2012); 66041 (December 23, 2011), 76 FR 82328 (December 30, 2011) (SR–NYSEAmex–2011–103) (extending the operation of the SLP Pilot to July 31, 2012); 67496 (July 25, 2012), 77 FR 45390 (July 31, 2012) (SR–NYSEMKT–2012–22) (extending the operation of the SLP Pilot to January 31, 2013); and 68557 (January 2, 2013), 78 FR 1284 (January 8, 2013) (SR–NYSEMKT–2012–85) (extending the operation of the SLP Pilot to July 31, 2013).

[5] The information contained herein is a summary of the NMM Pilot and the SLP Pilot. *See supra* note 4 and *Infra* note 6 for a fuller description of those pilots.

[6] *See* Securities Exchange Act Release No. 58845 (October 24, 2008), 73 FR 64379 (October 29, 2008) (SR–NYSE–2008–46).

[7] *See* NYSE Rule 103.

[8] *See* NYSE Rule 107B and NYSE MKT Rule 107B—Equities. NYSE amended the monthly volume requirements to an ADV that is a specified percentage of NYSE CADV. *See* Securities Exchange Act Release No. 67759 (August 30, 2012), 77 FR 54939 (September 6, 2012) (SR–NYSE–2012–38).

[9] *See* Securities Exchange Act Release Nos. 58877 (October 29, 2008), 73 FR 65904 (November 5, 2008) (SR–NYSE–2008–108) (adopting SLP Pilot program); 59869 (May 6, 2009), 74 FR 22796 (May 14, 2009) (SR–NYSE–2009–46) (extending SLP Pilot program until October 1, 2009); 60756 (October 1, 2009), 74 FR 51628 (October 7, 2009) (SR–NYSE–2009–100) (extending SLP Pilot program until November 30, 2009); 61075 (November 30, 2009), 74 FR 64112 (December 7, 2009) (SR–NYSE–2009–119) (extending SLP Pilot program until March 30, 2010); 61840 (April 5, 2010), 75 FR 18563 (April 12, 2010) (SR–NYSE–2010–28) (extending the SLP Pilot until September 30, 2010); 62813 (September 1, 2010), 75 FR 54686 (September 8, 2010) (SR–NYSE–2010–62) (extending the SLP Pilot until January 31, 2011); 63616 (December 29, 2010), 76 FR 612 (January 5, 2011) (SR–NYSE–2010–86) (extending the operation of the SLP Pilot to August 1, 2011); 64762 (June 28, 2011), 76 FR 39145 (July 5, 2011) (SR–NYSE–2011–30) (extending the operation of the SLP Pilot to January 31, 2012); 66045 (December 23, 2011), 76 FR 82342 (December 30, 2011) (SR–NYSE–2011–66) (extending the operation of the SLP Pilot to July 31, 2012); 67493 (July 25, 2012), 77 FR 45388 (July 31, 2012) (SR–NYSE–2012–27) (extending the operation of the SLP Pilot to January 31, 2013); and 68560 (January 2, 2013), 78 FR 1280 (January 8, 2013) (SR–NYSE–2012–76) (extending the operation of the SLP Pilot to July 31, 2013).

[10] *See* SR–NYSE–2013–44.

[11] *See* Securities Exchange Act Release No. 61308 (January 7, 2010), 75 FR 2573 (January 15, 2010) (SR–NYSEAmex–2009–98).

[12] The NMM Pilot was scheduled to expire on July 31, 2013 as well. On June 14, 2013, the Exchange filed to extend the NMM Pilot until January 31, 2014 (*See* SR–NYSEMKT–2013–51).

an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that the instant filing is consistent with these principles because the SLP Pilot provides its market participants with a trading venue that utilizes an enhanced market structure to encourage the addition of liquidity and operates to reward aggressive liquidity providers. Moreover, the instant filing requesting an extension of the SLP Pilot will permit adequate time for: (i) The Exchange to prepare and submit a filing to make the rules governing the SLP Pilot permanent; (ii) public notice and comment; and (iii) completion of the 19b–4 approval process.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that extending the operation of the SLP Pilot will enhance competition among liquidity providers and thereby improve execution quality on the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [13] and Rule 19b–4(f)(6) thereunder.[14] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEMKT–2013–52 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2013–52. 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 publicly available. All submissions should refer to File Number SR–NYSEMKT–2013–52 and should be submitted on or before July 18, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Jill M. Peterson,

Assistant Secretary.

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[13] 15 U.S.C. 78s(b)(3)(A)(iii).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69829; File No. SR–Phlx–2013–65]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing of Proposed Rule Change Relating to Which Complex Orders Can Initiate a Complex Order Live Auction

June 21, 2012.

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 June 11, 2013, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 1080.08(e) to provide that the Exchange can determine, based on origin type, which Complex Orders can initiate a Complex Order Live Auction ("COLA"), as described further below.

The text of the proposed rule change is below; proposed new language is italicized.

* * * * *

Rule 1080. Phlx XL and Phlx XL II

(a)–(o) No change.

••• *Commentary:* ----------

.01–.07 No change.

.08 Complex Orders on Phlx XL.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

(a)–(d) No change.

(e) Process for Complex Order Live Auction ("COLA"). Complex Orders on the Complex Order Book ("CBOOK," as defined below) may be subject to an automated auction process.

(i) For purposes of paragraph (e):

(A) COLA is the automated Complex Order Live Auction process. A COLA may take place upon identification of the existence of a COLA-eligible order either:

(1) Following a COOP, or (2) during normal trading if the Phlx XL system receives a Complex Order that improves the cPBBO.

(B)(1) A "COLA-eligible order" means a Complex Order (a) *that is* identified by way of a COOP, or (b) that, *as determined by the Exchange, considering the Complex Order origin types (as defined in Rule 1080.08(b) above),* upon receipt, improves the cPBBO respecting the specific Complex Order Strategy that is the subject of the Complex Order. If the Phlx XL system identifies the existence of a COLA-eligible order following a COOP or by way of receipt during normal trading of a Complex Order that improves the cPBBO, such COLA-eligible order will initiate a COLA, during which Phlx XL participants may bid and offer against the COLA-eligible order pursuant to this rule. COLA-eligible orders will be executed without consideration of any prices that might be available on other exchanges trading the same options contracts.

(2) Notwithstanding the foregoing, a Complex Order that would otherwise be a COLA-eligible order that is received in the Phlx XL system during the final seconds of any trading session shall not be COLA-eligible. The Exchange shall establish the number of seconds, not to exceed 10 seconds, in an Options Trader Alert.

(ii)–(ix) No change.

(f)–(i) No change.

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 proposal is to adopt the same flexibility as three other options exchanges regarding which complex orders can trigger an auction.[3] For example, CBOE's rule provides:

> (2) A "COA-eligible order" means a complex order that, as determined by the Exchange on a class-by-class basis, is eligible for a COA [4] considering the order's marketability (defined as a number of ticks away from the current market), size, complex order type (as defined in paragraphs (a) and (b) above) and complex order origin types (as defined in subparagraph (c)(i) above).[5] Complex orders processed through a COA may be executed without consideration to prices of the same complex orders that might be available on other exchanges . . . [emphasis added]

Although this CBOE rule permits the CBOE to determine more than just which complex order origin types are eligible for its COA,[6] the Exchange is only seeking this flexibility respecting complex order origin types.

The Exchange's Complex Order System is governed by Rule 1080.08 and offers a COLA for eligible orders. The COLA is an automated auction that is intended to seek additional liquidity and price improvement for Complex Orders.

The Exchange now proposes to provide that the Exchange can determine, based on origin type, which Complex Orders can initiate a COLA. The origin type (also known as origin code) refers to the participant types listed in Rule 1080.08(b) and Rule 1000(b)(14), which include non-broker-dealer customers and non-market-maker off-floor broker-dealers,[7] SQTs, RSQTs, non-SQT ROTs, specialists and non-Phlx market makers on another exchange (together, market makers),[8] Floor Brokers [9] and professional customers.[10]

The Exchange proposes to determine which origin type can trigger a COLA. If the Exchange determines that certain origin codes cannot trigger a COLA, those Complex Orders would continue to be handled pursuant to Rule 1080.08. For example, paragraph (f) governs how Complex Orders are placed on the CBOOK and how they are executed.

The Exchange intends to permit some orders, based on origin type, to not trigger a COLA because it believes that some of its participants do not wish to have their Complex Orders subject to a COLA because it results in a delay, during which markets can change and other orders can trade. The Exchange has learned that the ability to provide, under this proposal, that certain orders do not trigger a COLA may attract more of those Complex Orders to the Exchange, which the Exchange seeks to do. For example, the Exchange believes that off-floor broker-dealers and professionals, which are treated like off-floor broker-dealer orders for purposes of Rule 1080.08, seek an immediate execution. The Exchange believes that such participants prefer the speed and certainty of execution over the possibility of price improvement for their Complex Orders. The Exchange seeks the ability to determine, for example, that off-floor broker-dealers and professionals will not trigger a COLA. The Exchange is not seeking to distinguish professionals from off-floor broker-dealers for purposes of who initiates a COLA, and, therefore, is referring to the participant origin codes in Rule 1080.08(b) only. The proposed text would therefore not permit the Exchange to determine that off-floor broker-dealers can initiate a COLA but not professionals, because, pursuant to Rule 1000(b)14, professionals are treated the same as off-floor broker-dealers for purposes of all of Rule 1080.08.[11]

In addition to seeking flexibility, the Exchange is adopting this language partly to address the situation that, today, market maker orders do not

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[3] *See* CBOE Rule 6.53C(d)(i)(2), NYSE Arca Rule 6.91(c)(1) and NYSE MKT Rule 980NY(e)(1).

[4] A COA is the automated complex order RFR auction process. *See* CBOE Rule 6.53C(d)(i)(1).

[5] This provision states that CBOE's complex order origin types are non-broker-dealer public customer, broker-dealers that are not Market-Makers or specialists on an options exchange, and/or Market-Makers or specialists on an options exchange.

[6] Namely, the CBOE can determine which class, how many ticks away, size and complex order type trigger a COA.

[7] Rule 1080.08(b)(i).

[8] Rules 1014 and 1080.08(b)(ii).

[9] Rule 1080.08(b)(iii).

[10] Rule 1000(b)(14). The term "professional" means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). A professional will be treated in the same manner as an off-floor broker-dealer for purposes of Rules 1014(g) (except with respect to all-or-none orders, which will be treated like customer orders, except that orders submitted pursuant to Rule 1080(n) for the beneficial account(s) of professionals with an all-or-none designation will be treated in the same manner as off-floor broker-dealer orders), 1033(e), 1064.02 (except professional orders will be considered customer orders subject to facilitation), 1080(n) and 1080.08 as well as Options Floor Procedure Advices B–6, B–11 and F–5. Member organizations must indicate whether orders are for professionals.

[11] Consistent with Rule 1000(b)(14), the Exchange is not proposing to treat professionals differently than off-floor broker-dealers.

trigger a COLA. The Exchange began permitting market maker orders to be entered as DAY orders recently.[12] Previously, they could only be entered as IOC orders and thereby never triggered a COLA. Accordingly, the Exchange determined not to permit market maker DAY orders to trigger a COLA, but did not change its rule to provide for this. Changing its rule to provide for flexibility as to which order triggers a COLA will address this situation. The Exchange continues to believe that, generally, market makers would prefer not to trigger a COLA, because it results in a delay. Of course, those market makers can enter their orders as DNA orders [13] or IOC orders [14] to avoid a COLA; however, both of these order types are cancelled if not immediately executed, thereby removing the opportunity for market makers to send an order that can both execute without delay and result in the remainder posting on the CBOOK.

Accordingly, the Exchange seeks the flexibility that other options exchanges have to determine which Complex Orders trigger an auction. If this flexibility is applied to prevent certain origin types from triggering a COLA, the Exchange does not believe that this will disadvantage them and may in fact be more consistent with their trading goals and style, based on informal input the Exchange has received.

The Exchange notes that it is common for certain functionality not to be available to all origin types. For example, as noted above, Complex Orders with certain time-in-force instructions are available only to certain origin types; today, market makers cannot enter Good-Til-Cancelled Complex Orders.[15] In addition, CBOE determines which participants can respond to its COA.[16]

The Exchange intends to implement these changes in July or August, pending final technological readiness, and will issue an Options Trader Alert ("OTA") indicating when the changes become operative and which origin codes in which options can trigger a COLA.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the provisions of Section 6 of the Act,[17] in general, and with Section 6(b)(5) of the Act,[18] in particular, which requires that the rules of an exchange be designed to promote just and equitable principles of trade, and, in general, protect investors and the public interest, and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Specifically, the Exchange believes that adopting this provision, similar to other exchanges', should attract additional Complex Orders to the Exchange. The Exchange believes that some market participants prefer an immediate execution over the benefits of an auction, such that they may choose to send their complex orders to another options exchange that has the ability under its rules not to trigger an auction. Accordingly, the proposal should help the Exchange garner more Complex Order business, which, in turn, should benefit the various Exchange participants who are interested in trading using Complex Orders. The Exchange does not believe that the proposal is unfairly discriminatory, because Complex Orders of the same origin type would be treated the same by the Exchange; although a particular origin type may not, under this proposal, trigger a COLA, this should not result in unfair discrimination respecting such origin type, because such participants may not, as the Exchange has learned, believe that a COLA is necessary or helpful. Such participants have expressed their preference for speed and certainty of execution, over the possibility of price improvement for their Complex Orders. As stated above, the Exchange offers a Do Not Auction order type,[19] which does not trigger an auction. However, that order type is cancelled if not immediately executed, so it is not necessarily useful to a participant who seeks to have a complex order go on the CBOOK. Of course, the Exchange could change that order type or develop a new one. Instead, the Exchange has determined for implementation reasons to seek the ability to determine which Complex Orders initiate a COLA, similar to other options exchanges.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Specifically, the proposal does not impose an intra-market burden on competition; even though it would enable the Exchange to determine that certain participants' orders would not trigger a COLA, the ability of those participants to compete amongst each other and with other market participants would be enhanced and not diminished, because they have requested this functionality for the reasons stated above.

Nor will the proposal impose a burden on competition among the options exchanges, because, in addition to the vigorous competition for order flow among the options exchanges, the proposal is the same as three other exchanges that determine, with flexibility, which complex orders trigger an auction. To the extent that market participants disagree with the particular approach taken by the Exchange herein, market participants can easily and readily direct complex order flow to competing venues. In fact, the proposal is pro-competitive because it permits the Exchange to better compete with those exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such 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–Phlx–2013–65 on the subject line.

[12] *See* Securities Exchange Act Release No. 63777 (January 26, 2011), 76 FR 5630 (February 1, 2011) (SR–Phlx–2010–157).

[13] *See* Rule 1080.08(a)(viii).

[14] *See* Rule 1080.08(b).

[15] *See* Rule 1080.08(b)(ii).

[16] *See* CBOE Rule 6.53C(d)(iii).

[17] 15 U.S.C. 78f.

[18] 15 U.S.C. 78f(b)(5).

[19] *See* Rule 1080.08(a)(viii).

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–Phlx–2013–65. 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 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2013–65, and should be submitted on or before July 18, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2013–15370 Filed 6–26–13; 8:45 am]

BILLING CODE 8011–01–P

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69813; File No. SR–NYSE–2013–43]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Operation of Its New Market Model Pilot, Until the Earlier of Securities and Exchange Commission Approval To Make Such Pilot Permanent or January 31, 2014

June 20, 2013.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the "Act") [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on June 14, 2013, New York Stock Exchange LLC ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The 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 extend the operation of its New Market Model Pilot, currently scheduled to expire on July 31, 2013, until the earlier of Securities and Exchange Commission ("Commission") approval to make such pilot permanent or January 31, 2014. 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to extend the operation of its New Market Model Pilot ("NMM Pilot"),[4] currently scheduled to expire on July 31, 2013, until the earlier of Commission approval to make such pilot permanent or January 31, 2014.

The Exchange notes that parallel changes are proposed to be made to the rules of NYSE MKT LLC.[5]

Background [6]

In October 2008, the NYSE implemented significant changes to its market rules, execution technology and the rights and obligations of its market participants all of which were designed to improve execution quality on the Exchange. These changes are all elements of the Exchange's enhanced market model. Certain of the enhanced market model changes were implemented through a pilot program.

As part of the NMM Pilot, NYSE eliminated the function of specialists on the Exchange creating a new category of market participant, the Designated Market Maker or DMM.[7] The DMMs, like specialists, have affirmative obligations to make an orderly market, including continuous quoting requirements and obligations to re-enter the market when reaching across to execute against trading interest. Unlike specialists, DMMs have a minimum quoting requirement [8] in their assigned securities and no longer have a negative

[4] *See* Securities Exchange Act Release No. 58845 (October 24, 2008), 73 FR 64379 (October 29, 2008) (SR–NYSE–2008–46). *See also* Securities Exchange Act Release Nos. 60756 (October 1, 2009), 74 FR 51628 (October 7, 2009) (SR–NYSE–2009–100) (extending Pilot to November 30, 2009); 61031 (November 19, 2009), 74 FR 62368 (November 27, 2009) (SR–NYSE–2009–113) (extending Pilot to March 30, 2010); 61724 (March 17, 2010), 75 FR 14221 (March 24, 2010) (SR–NYSE–2010–25) (extending Pilot to September 30, 2010); 62819 (September 1, 2010), 75 FR 54937 (September 9, 2010) (SR–NYSE–2010–61) (extending Pilot to January 31, 2011); 63616 (December 29, 2010), 76 FR 612 (January 5, 2011) (SR–NYSE–2010–86) (extending Pilot to August 1, 2011); 64761 (June 28, 2011), 76 FR 39147 (July 5, 2011) (SR–NYSE–2011–29) (extending Pilot to January 31, 2012); 66046 (December 23, 2011), 76 FR 82340 (December 30, 2011) (SR–NYSE–2011–65) (extending Pilot to July 31, 2012); 67494 (July 25, 2012), 77 FR 45408 (July 31, 2012) (SR–NYSE–2012–26) (extending Pilot to January 31, 2013); and 68558 (January 2, 2013), 78 FR 1288 (January 8, 2013) (SR–NYSE–2012–75) (extending Pilot to July 31, 2013).

[5] *See* SR–NYSEMKT–2013–51.

[6] The information contained herein is a summary of the NMM Pilot. *See supra* note 4 for a fuller description.

[7] *See* NYSE Rule 103.

[8] *See* NYSE Rule 104.

obligation. DMMs are also no longer agents for public customer orders.[9]

In addition, the Exchange implemented a system change that allowed DMMs to create a schedule of additional non-displayed liquidity at various price points where the DMM is willing to interact with interest and provide price improvement to orders in the Exchange's system. This schedule is known as the DMM Capital Commitment Schedule ("CCS").[10] CCS provides the Display Book® [11] with the amount of shares that the DMM is willing to trade at price points outside, at and inside the Exchange Best Bid or Best Offer ("BBO"). CCS interest is separate and distinct from other DMM interest in that it serves as the interest of last resort.

The NMM Pilot further modified the logic for allocating executed shares among market participants having trading interest at a price point upon execution of incoming orders. The modified logic rewards displayed orders that establish the Exchange's BBO. During the operation of the NMM Pilot, orders or portions thereof that establish priority [12] retain that priority until the portion of the order that established priority is exhausted. Where no one order has established priority, shares are distributed among all market participants on parity.

The NMM Pilot was originally scheduled to end operation on October 1, 2009, or such earlier time as the Commission may determine to make the rules permanent. The Exchange filed to extend the operation of the Pilot on several occasions in order to prepare a rule filing seeking permission to make the above described changes permanent.[13] The Exchange is currently still preparing such formal submission but does not expect that filing to be completed and approved by the Commission before July 31, 2013.

Proposal to Extend the Operation of the NMM Pilot

The NYSE established the NMM Pilot to provide incentives for quoting, to enhance competition among the existing group of liquidity providers and to add a new competitive market participant. The Exchange believes that the NMM Pilot allows the Exchange to provide its market participants with a trading venue that utilizes an enhanced market structure to encourage the addition of liquidity, facilitate the trading of larger orders more efficiently and operates to reward aggressive liquidity providers. As such, the Exchange believes that the rules governing the NMM Pilot should be made permanent. Through this filing the Exchange seeks to extend the current operation of the NMM Pilot until January 31, 2014, in order to allow the Exchange time to formally submit a filing to the Commission to convert the pilot rules to permanent rules.

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the "Act") for this proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that this filing is consistent with these principles because the NMM Pilot provides its market participants with a trading venue that utilizes an enhanced market structure to encourage the addition of liquidity, facilitate the trading of larger orders more efficiently and operates to reward aggressive liquidity providers. Moreover, requesting an extension of the NMM Pilot will permit adequate time for: (i) The Exchange to prepare and submit a filing to make the rules governing the NMM Pilot permanent; (ii) public notice and comment; and (iii) completion of the 19b-4 approval process.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that extending the operation of the NMM Pilot will enhance competition among liquidity providers and thereby improve execution quality on the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [14] and Rule 19b–4(f)(6) thereunder.[15] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2013–43 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary,

[9] *See* NYSE Rule 60; *see also* NYSE Rules 104 and 1000.

[10] *See* NYSE Rule 1000.

[11] The Display Book system is an order management and execution facility. The Display Book system receives and displays orders to the DMMs, contains the order information, and provides a mechanism to execute and report transactions and publish the results to the Consolidated Tape. The Display Book system is connected to a number of other Exchange systems for the purposes of comparison, surveillance, and reporting information to customers and other market data and national market systems.

[12] *See* NYSE Rule 72(a)(ii).

[13] *See supra* note 4.

[14] 15 U.S.C. 78s(b)(3)(A)(iii).

[15] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2013–43. 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 publicly available. All submissions should refer to File Number SR–NYSE–2013–43 and should be submitted on or before July 18, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority. [16]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–15343 Filed 6–26–13; 8:45 am]

BILLING CODE 8011–01–P

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69830; File No. SR–NASDAQ–2013–083]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Eliminate an Erroneous Reference to the Retired Automatic Quotation Refresh Functionality Under Rule 4751(d)

June 21, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on June 13, 2013, The NASDAQ Stock Market LLC ("NASDAQ" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to eliminate an erroneous reference to the retired automatic quotation refresh functionality in Rule 4751(d). NASDAQ will implement the change at the earliest time possible, but in no event later than the 30th day following the date of the filing. The text of the proposed rule change is below. Proposed deletions are in brackets; proposed additions are *italicized*.

* * * * *

4751. Definitions

The following definitions apply to the Rule 4600 and 4750 Series for the trading of securities listed on Nasdaq or a national securities exchange other than Nasdaq.

(a)–(c) No change.

(d) With respect to System-provided quotation functionality:

(1) The term "Quote" shall mean a single bid or offer quotation submitted to the System and designated for display (price and size) next to the Participant's MPID by a Participant that is eligible to submit such quotations.

(2) *Reserved.* [The term "Automatic Quote Refresh" shall mean the default price increment away from the executed price and the size to which a Participant's Quote will be refreshed if the Participant elects to utilize this functionality. If the Participant does not designate an Automatic Quote Refresh size, which must be at least one normal unit of trading, the default Automatic Quote Refresh size shall be 100 shares and the default Automatic Quote Refresh price increment shall be $0.25.]

(3) The term "Reserve Size" shall mean the System-provided functionality that permits a Participant to display in its Displayed Quote part of the full size of a proprietary or agency order, with the remainder held in reserve on an undisplayed basis. Both the displayed and non-displayed portions are available for potential execution against incoming orders. If the Displayed Quote is reduced to less than a normal unit of trading, the System will replenish the display portion from reserve up to at least a single round-lot amount. A new timestamp is created for the replenished portion of the order each time it is replenished from reserve, while the reserve portion retains the time-stamp of its original entry.

(e)–(i) No change.

* * * * *

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

On January 14, 2013, the Exchange filed an immediately effective rule change to retire the automated quotation refresh functionality ("AQR") provided to Exchange market makers under Rules 4613(a)(2)(F) and (G), and to make conforming changes to Rule 4751(f)(15), which became effective February 25, 2013.[3] AQR assisted market makers in meeting their enhanced quotation obligations adopted after May 6, 2010,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 68654 (January 15, 2013), 78 FR 4536 (January 22, 2013) (SR–NASDAQ–2013–007); *see also* Securities Exchange Act Release No. 68528 (December 21, 2012), 77 FR 77165 (December 31, 2012) (SR–NASDAQ–2012–140).

and avoid execution of market maker "stub quotes" in instances of aberrant trading. AQR was ultimately replaced by NASDAQ's Market Maker Peg Order, which was approved by the Commission on August 2, 2012.[4]

NASDAQ recently became aware that a reference to the retired AQR functionality remains in the NASDAQ rule book. Specifically, Rule 4751 provides definitions applicable to the Rule 4600 and 4750 Series, relating to the trading of securities listed on NASDAQ or a national securities exchange other than NASDAQ. Rule 4751(d) provides definitions of terms used in the routing of orders and subparagraph (2) of the rule provides a definition of the term "Automatic Quote Refresh," which references the AQR functionality that was retired. Accordingly, NASDAQ is proposing to eliminate the current Rule 4751(d)(2) text in its entirety, holding the rule number in reserve.

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Act,[5] which requires the rules of an exchange to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule meets these requirements in that it eliminates language from the rule book that references the now-retired AQR functionality. NASDAQ believes that leaving the language in the rule book may be confusing to investors and it was NASDAQ's intent when it retired AQR to remove all references to AQR from the rule book. Accordingly, NASDAQ believes that it is consistent with the Act to remove this now defunct reference.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change will remove rule text from NASDAQ's rule book that references a retired functionality and which now has no effect or purpose. As such, NASDAQ believes that the proposed rule change will have no effect whatsoever on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and Rule 19b–4(f)(6) thereunder.[7]

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposal will allow NASDAQ to make the deletion operative in the quickest time possible to avoide potential market participant confusion. Therefore, the Commission designates the proposal operative upon filing.[8]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml;*) or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2013–083 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2013–083. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2013–083 and should be submitted on or before July 18, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2013–15371 Filed 6–26–13; 8:45 am]

BILLING CODE 8011–01–P

[4] Securities Exchange Act Release No. 67584 (August 2, 2012), 77 FR 47472 (August 8, 2012) (SR–NASDAQ–2012–066).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[8] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69821; File No. SR–BX–2013–040]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Section 4 of Chapter XV of the BX Options Rules

June 21, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1], and Rule 19b–4 thereunder,[2] notice is hereby given that on June 11, 2013, NASDAQ OMX BX, Inc. ("BX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Section 4 of Chapter XV of the BX Options Rules setting forth the fees for options market data known as BX Top of Market Options ("BX Top") and BX Depth of Market Options ("BX Depth"). The text of the proposed rule change is also available on the Exchange's Web site at *http://nasdaqomxbx.cchwallstreet.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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Section 4 of Chapter XV to set forth the fees for options market data already distributed as BX Top and BX Depth. The Exchange has been offering the BX Top and BX Depth options market data free of charge for almost a year since the launch of the BX Options Market. The Exchange now proposes to institute fees for recipients of BX Top and BX Depth data, with a free trial offer for certain data recipients.

BX Depth is currently described in the Exchange's option rules at subsection (a)(3)(A) of Chapter VI, Section 1 as a data package that includes quotation information for individual orders on the BX book, last sale information for trades executed on BX, and Order Imbalance Information as set forth in BX Rules Chapter VI, Section 8. Members use BX Depth to "build" their view of the BX book by adding individual orders that appear in the data, and subtracting individual orders that are executed.

BX Top is currently described in subsection (a)(3)(B) of Chapter VI, Section 1 as a data package that includes the BX Best Bid and Offer ("BX BBO") and last sale information for trades executed on BX. The BX BBO and last sale information are identical to the information that BX sends the Options Price Regulatory Authority ("OPRA") and which OPRA disseminates via the consolidated data feed for options.

BX proposes to set fees for BX Top and BX Depth data that use elements of the current fee structure for recipients of BX TotalView and BX BBO,[3] which are equities market data products similar to BX Top and BX Depth. First, the Exchange proposes to charge monthly fees for firms that are Distributors of BX Top and BX Depth data. Proposed Section 4(b) of Chapter XV states that a "Distributor" of BX options market data is any entity that receives a feed or data file of BX data directly from BX or indirectly through another entity and then distributes the data either internally (within that entity) or externally (outside that entity). Proposed subsection 4(b) also states that all Distributors would be required to execute a Distributor agreement with the Exchange. The amount of the monthly fees would depend on whether a Distributor is an "Internal Distributor" or "External Distributor."[4]

An Internal Distributor is a firm that is permitted by agreement with the Exchange to provide BX Top and BX Depth data to internal Subscribers (i.e., users within their own organization). Under the proposal, Distributors that only use the BX data internally would be charged monthly fee of $1,500 per firm.

An External Distributor is a firm that is permitted by agreement with the Exchange to provide BX Top and BX Depth data to both internal Subscribers and to external Subscribers (i.e., users outside of their own organization). Distributors provide BX data externally would be charged a monthly fee of $2,000 per firm. The fee paid by an External Distributor includes the Internal Distributor Fee. The fee paid by an Internal Distributor or an External Distributor would allow access to both the BX Top and BX Depth data feeds.

The Exchange also proposes to assess Subscriber fees for BX Top and BX Depth data on a Per Subscriber basis.[5] These fees would vary based on whether they are for Professional Subscribers or Non-Professional Subscribers. Proposed Section 4(f) states that the term "Non-Professional" shall have the same meaning as in BX Rule 7023(b)(2). Rule 7023(b)(2) defines a "Non-Professional" as a natural person who is neither: (A) Registered or qualified in any capacity with the Commission, the Commodities Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (B) engaged as an "investment adviser" as that term is defined in Section 201(11) of the Investment Advisors Act of 1940 (whether or not registered or qualified under that Act); nor (C) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt.[6] A Professional Subscriber is any recipient that is not a Non-Professional.

[3] *See* BX Rules 7023 and 7047.

[4] Thus, a Distributor may pay either "Internal Distributor" or "External Distributor" fees.

[5] While the Subscriber fees would be paid by firms (Internal Distributors and External Distributors), some portion of the fees may be passed through to Subscribers inside or outside the firms (that is, to internal or external Subscribers).

[6] The Exchange believes that Non-Professional Subscribers of market data, in contrast to Professional data Subscribers and Distributors, often tend to be individual consumers, smaller retail investors, and public customers.

For BX Top data, the proposed Subscriber fees are $5 per Professional Subscriber; and $1 per Non-Professional Subscriber. For BX Depth data, the proposed fees are $10 per Professional Subscriber; and $1 per Non-Professional Subscriber.

The Exchange notes that for many years, exchanges have engaged in and the Commission has accepted the practice of price differentiation, both in the context of market data as well as in the context of executions. With respect to market data, NASDAQ and NYSE Euronext ("NYSE") in their capacities as network processors and exchanges have differentiated in pricing between Professional and Non-Professional market data Subscriber, often charging Professionals many times more than Non-Professionals for using the same data. For example, NASDAQ currently charges Non-Professionals $15 per terminal for its NASDAQ Depth Data via a standalone terminal, while Professional Subscribers pay roughly five times the Non-Professional rate.[7] This reflects the value of the service to various constituencies (i.e., lower prices are charged to consumers with more elastic demand) and allows both types of investors to contribute to the high fixed costs of operating an exchange platform. The Exchange believes that this differentiation for Professional and Non-Professional data usage, as the differentiation for Professional and Non-Professional Subscribers proposed in this filing, is completely consistent with past Commission precedent and economic theory.[8]

The Exchange also proposes to assess a monthly non-display enterprise license fee. Proposed Section 4(c) of Chapter XV states that an "Enterprise License" entitles a Distributor to provide BX Top and BX Depth market data pursuant to this rule to an unlimited number of non-display devices[9] internally (within the firm) without any additional Subscriber fees associated with these non-display devices. Under the proposal, Distributors of BX Top and BX Depth data, if they choose to subscribe to a non-display enterprise license, would be charged a monthly enterprise license fee or $2,500.

The non-display enterprise license is in addition to the Internal or External Distributor fees. Thus, a firm that has a non-display enterprise license could pay an Internal Distributor fee and the Enterprise License fee and distribute data to limitless number of non-display devices (devices within the firm) pursuant to the license without incurring further fees for each internal device. However, the enterprise license does not allow external distribution without incurring an External Distributor fee and external Subscriber fees, if applicable under the circumstances.

Finally, the Exchange proposes a 30-Day Free Trial Offer in proposed subsection (g) of Section 4.[10] In particular, the 30-day waiver of the Subscriber fees for BX options market data pursuant to the rule extends to all new individual (non-firm) Subscribers. This fee waiver period will be applied on a rolling basis, determined by the date on which a new individual (non-distributor or firm) is first entitled by a Distributor to receive access to BX options market data. Subsection (g) provides that a Distributor may only provide this waiver to a specific Subscriber at one time.

The Exchange notes that the categories of BX Top and BX Depth market data and fees compare favorably with similar products offered by other markets such as International Stock Exchange ("ISE"), NYSE, NASDAQ OMX PHLX ("Phlx"), and Chicago Board Options Exchange ("CBOE"). For example, ISE offers market data products that are similar to BX Top: a data feed that shows the top of the market entitled TOP Quote Feed,[11] and a data feed that shows the top five price levels entitled Depth of Market.[12] NYSE offers a market data product for Arca and Amex that is similar to BX Top and BX Depth: a feed that shows top of book, last sale, and depth of quote and is entitled NYSE Arca Book for Options.[13] Phlx offers a market data feed entitled TOPO that is similar to BX Top and shows orders and quotes at the top of the market, as well as trades; and a Phlx Depth feed that is similar to BX Depth and shows the data in the TOPO data feed as well as the depth of orders. [14] A subsidiary of CBOE for which CBOE charges fees offers a market data feed that is similar to BX Top and shows BBO, last sale, and top of book data.[15] And BATS offers Multicast PITCH, which is their depth of market and last sale feed similar to BX Depth.[16]

The Exchange believes that the continued availability of BX Top and BX Depth data feeds enhances transparency, fosters competition among orders and markets, and enables buyers and sellers to obtain better prices.

2. Statutory Basis

BX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[17] in general, and with Section 6(b)(4) of the Act,[18] in particular, in that it provides an equitable allocation of reasonable fees among recipients of BX data. 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

[7] *See* BX [sic] Rule 7023.

[8] In economic terms, charging lower fees to non-professional consumers increases overall economic welfare by increasing output—in this case, providing more data to more investors—and avoids two equally undesirable alternatives: (i) Requiring the firm to charge uniformly high prices that constrict demand, or (ii) insisting on uniformly low prices at marginal cost (potentially zero or close to zero) that do not allow the firm to cover its fixed costs and thereby lead to bankruptcy.

[9] Non-display devices do not graphically show (display) BX Top and BX Depth market data but instead use the data for performance of analytic or calculative functions (e.g. algorithms).

[10] The Exchange also offers a 30-day free trial for BX TotalView. *See* BX Rule 7023.

[11] The ISE TOP Quote Feed has a monthly base access fee of $3,000 applicable to professionals and non-professionals plus a $20 variable device fee for professionals and a no device fee for internal use professionals; or a flat fixed enterprise fee of $5,000 for unlimited internal/external use and a $4,000 fee for unlimited internal use. The Exchange notes that the monthly fees for the ISE TOP Quote Feed are higher than those proposed in this filing.

[12] The ISE Depth of Market Feed has a monthly base access fee of $5,000 applicable to professionals and non-professionals plus a $50 variable device fee for professionals and a $5 per device fee for external distribution non-professionals; or a flat fixed enterprise fee of $7,500 for unlimited internal use, and $10,000 for unlimited internal/external use. The Exchange notes that the monthly fees for ISE Depth of Market are higher than those proposed in this filing for a more robust product.

[13] The fee for NYSE Arca Book for Options is $3,000 per month for direct or indirect access, $2,000 for external redistribution; and a $50 per user professional user fee and $1 per user Non-professional user fee.

[14] TOPO Plus Orders has a monthly fee of $4,000 for internal distributors or $5,000 for external distributors plus a monthly fee of $1 per Non-Professional Subscribers and $20 for Professional Subscribers. The Exchange notes that the monthly fees for TOPO Plus Orders are higher than those proposed in this filing. *See* Securities Exchange Act Release No. 62194 (May 28, 2010), 75 FR 31830 (June 4, 2010) (SR–Phlx–2010–48) (order approving proposal related to TOPO Plus Orders market data fees).

[15] The subsidiary is identified as Market Data Express, LLC ("MDX") by CBOE, which indicates that the feed will also provide data regarding contingency orders and complex strategies. The monthly fee charged by CBOE for the data is $3,500 plus a $25 per user or device fee. *See* Securities Exchange Act Release No. 63997 (March 1, 2011), 76 FR 12388 (March 7, 2011) (SR–CBOE–2011–014) (notice of filing and immediate effectiveness). In the filing, CBOE specifically references as similar products the Phlx TOPO Plus Orders feed and the ISE Depth of Market Feed.

[16] BATS offers Multicast PITCH without charge ostensibly to attract order flow to that exchange.

[17] 15 U.S.C. 78f.

[18] 15 U.S.C. 78f(b)(4).

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.[19]

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 Barack 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 Exchange 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, No. 09–1042 (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.'" NetCoalition, at 15 (quoting H.R. Rep. No. 94–229, at 92 (1975), as reprinted in 1975 U.S.C.C.A.N. 321, 323).

BX believes that the proposed fees are fair and equitable, and not unreasonably discriminatory. The proposed fees are based on pricing conventions and distinctions that currently exist in the fee schedules of other exchanges, including NASDAQ and PHLX. These distinctions (e.g. Distributor versus Subscriber, Professional versus Non-Professional, internal versus external distribution, controlled versus uncontrolled datafeed) are each based on principles of fairness and equity that have helped for many years to maintain fair, equitable, and not unreasonably discriminatory fees, and that apply with equal or greater force to the current proposal. BX believes that the BX Top and BX Depth offerings is equitable in that it provides an opportunity for all Distributors and Subscribers, Professional and Non-Professional, to identical data without unfairly discriminating against any.

Thus, if BX has calculated improperly and the market deems the proposed fees to be unfair, inequitable, or unreasonably discriminatory, firms can diminish or discontinue the use of their data because the proposed fees are entirely optional to all parties. Firms are not required to choose to purchase BX Top or BX Depth or to utilize any specific pricing alternative. BX is not required to make BX Top or BX Depth available or to offer specific pricing alternatives for potential purchases. BX can discontinue offering a pricing alternative (as it has in the past) and firms can discontinue their use at any time and for any reason (as they often do), including due to their assessment of the reasonableness of fees charged. BX continues to establish and revise pricing policies aimed at increasing fairness and equitable allocation of fees among Subscribers.

Competitive products similar to BX Top or BX Depth are, as previously discussed, offered by other exchanges, albeit sometimes at higher prices. ISE offers two data products similar to BX Top that are called TOP Quote Feed and Depth of Market and have fees higher than those proposed in this filing.[20] NYSE offers a market data product similar to BX Top or BX Depth called NYSE Arca Book of Options that has market data for NYSE Arca and NYSE Amex. Phlx offers a market data product that is similar to ITTO.[21] CBOE offers a market data product that is similar to BX Top.[22] BATS offers a market data product similar to BX Depth. Moreover, the Exchange notes that, as a substitute for exchange data, consolidated market data (e.g. last sale, NBBO, current quotes) are also available from securities information processors such as OPRA.

B. Self-Regulatory Organization's Statement on Burden on Competition

BX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. 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. BX believes that a record may readily be established to demonstrate the competitive nature of the market in question.

The proposal is, as described below, pro-competitive. 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

[19] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

[20] For the fees related to ISE TOP Quote Feed and Depth of Market, *see* supra notes 11 and 12.

[21] For the fees related to NYSE Arca Book of Options and Phlx TOPO Plus Orders, *see supra* notes 13 and 14.

[22] For the fees related to the CBOE market data product, *see supra* note 15.

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 orders entered and trades executed, exchange data products cannot exist. Data products are valuable to many end Subscribers insofar as they provide information that end Subscribers expect will assist them 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 an 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 decreases, 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.

"No one disputes that competition for order flow is fierce." NetCoalition at 24. 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 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. This would be akin to strictly regulating the price that an automobile manufacturer can charge for car sound systems despite the existence of a highly competitive market for cars and the availability of after-market alternatives to the manufacturer-supplied system.

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 more than ten SRO markets, as well as internalizing broker-dealers 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 Financial Industry Regulatory Authority, Inc. ("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, broker-dealers, 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 broker-dealer is currently permitted to produce proprietary data products, and many currently do or have announced plans to do so, including NASDAQ, NYSE, NYSE Amex (now NYSE MKT), NYSEArca, DirectEdge and BATS.

Any ATS or BD can combine with any other ATS, broker-dealer, or multiple ATSs or broker-dealers 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, broker-dealers, 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, for example, BATS and Arca did before registering as exchanges by publishing Depth-of-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 Subscribers. Vendors impose price restraints based upon their business models. For example, vendors such as Bloomberg and Thomson Reuters that assess a surcharge on data they sell may refuse to offer proprietary products that end Subscribers 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. BX 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.

In addition to the competition and price discipline described above, the market for proprietary data products is also highly contestable because market entry is rapid, inexpensive, and profitable. The history of electronic trading is replete with examples of entrants that swiftly grew into some of the largest electronic trading platforms and proprietary data producers: Archipelago, Bloomberg Tradebook, Island, RediBook, Attain, TracECN, BATS and Direct Edge. A proliferation of dark pools and other ATSs operate profitably with fragmentary shares of consolidated market volume.

Regulation NMS, by deregulating the market for proprietary data, has increased the contestability of that market. While broker-dealers have previously published their proprietary data individually, Regulation NMS encourages market data vendors and broker-dealers to produce proprietary products cooperatively in a manner never before possible. Multiple market data vendors already have the capability to aggregate data and disseminate it on a profitable scale, including Bloomberg, and Thomson Reuters.

Competition among platforms has driven BX continually to improve its platform data offerings and to cater to customers' data needs. For example, BX has developed and maintained multiple delivery mechanisms (IP, multi-cast, and compression) that enable customers to receive data in the form and manner they prefer and at the lowest cost to them. BX has created new products like BX Depth, because offering data in multiple formatting allows BX to better fit customer needs. BX offers data via multiple extranet and telecommunication providers such as Verizon, BT Radianz, and Savvis, among others, thereby helping to reduce network and total cost for its data products. BX has an online administrative system to provide customers transparency into their datafeed requests and streamline data usage reporting. BX is also implementing an Enterprise License option to reduce the administrative burden and costs to firms that purchase market data.

Despite these enhancements and ever increasing message traffic, BX's fees for market data have remained flat. The same holds true for execution services; despite numerous enhancements to BX's trading platform, absolute and relative trading costs have declined. Platform competition has intensified as new entrants have emerged, constraining prices for both executions and for data.

The vigor of competition for options data is significant and the Exchange believes that this proposal itself clearly evidences such competition. The Exchange has witnessed competitors creating new products and innovative pricing in this space over the course of the past year. BX continues to see firms challenge its pricing on the basis of the Exchange's explicit fees being higher than the zero-priced fees from other competitors such as BATS. In all cases, firms make decisions on how much and what types of data to consume on the basis of the total cost of interacting with BX or other exchanges. Of course, the explicit data fees are but one factor in a total platform analysis. Some competitors have lower transactions fees and higher data fees, and others are vice versa. The market for the proposed data is highly competitive and continually evolves as products develop and change.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[23] and paragraph (f) of Rule 19b–4 thereunder.[24]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BX–2013–040 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2013–040. 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

[23] 15 U.S.C. 78s(b)(3)(A).

[24] 17 CFR 240.19b–4(f).

business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of BX. 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–SR–BX–2013–040, and should be submitted on or before July 18, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2013–15373 Filed 6–26–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69814; File No. SR–NYSEMKT–2013–53]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE MKT Rule 500—Equities To Extend the Operation of the Pilot Program That Allows Nasdaq Stock Market Securities To Be Traded on the Exchange Pursuant to a Grant of Unlisted Trading Privileges Until the Earlier of Securities and Exchange Commission Approval To Make Such Pilot Permanent or January 31, 2014

June 20, 2013.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on June 17, 2013, NYSE MKT LLC ("NYSE MKT" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The 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 proposes to amend NYSE MKT Rule 500—Equities to extend the operation of the pilot program that allows Nasdaq Stock Market ("Nasdaq") securities to be traded on the Exchange pursuant to a grant of unlisted trading privileges. The pilot is currently scheduled to expire on July 31, 2013; the Exchange proposes to extend it until the earlier of Securities and Exchange Commission ("Commission") approval to make such pilot permanent or January 31, 2014. 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

NYSE MKT Rules 500–525—Equities, as a pilot program, govern the trading of any Nasdaq-listed security on the Exchange pursuant to unlisted trading privileges ("UTP Pilot Program").[4] The Exchange hereby seeks to extend the operation of the UTP Pilot Program, currently scheduled to expire on July 31, 2013, until the earlier of Commission approval to make such pilot permanent or January 31, 2014.

The UTP Pilot Program includes any security listed on Nasdaq that (i) is designated as an "eligible security" under the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis, as amended ("UTP Plan"),[5] and (ii) has been admitted to dealings on the Exchange pursuant to a grant of unlisted trading privileges in accordance with Section 12(f) of the Securities Exchange Act of 1934, as amended (the "Act"),[6] (collectively, "Nasdaq Securities").[7]

The Exchange notes that its New Market Model Pilot ("NMM Pilot"), which, among other things, eliminated the function of specialists on the Exchange and created a new category of market participant, the Designated Market Maker ("DMM"),[8] is also scheduled to end on July 31, 2013.[9] The timing of the operation of the UTP Pilot Program was designed to correspond to that of the NMM Pilot. In approving the UTP Pilot Program, the Commission acknowledged that the rules relating to DMM benefits and duties in trading Nasdaq Securities on the Exchange pursuant to the UTP Pilot Program are consistent with the Act[10] and noted the similarity to the NMM Pilot, particularly with respect to DMM obligations and benefits.[11] Furthermore, the UTP Pilot Program rules pertaining to the

[25] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 62479 (July 9, 2010), 75 FR 41264 (July 15, 2010) (SR–NYSEAmex–2010–31). *See also* Securities Exchange Act Release Nos. 62857 (September 7, 2010), 75 FR 55837 (September 14, 2010) (SR–NYSEAmex–2010–89); 63601 (December 22, 2010), 75 FR 82117 (December 29, 2010) (SR–NYSEAmex–2010–124); 64746 (June 24, 2011), 76 FR 38446 (June 30, 2011) (SR–NYSEAmex–2011–45); 66040 (December 23, 2011), 76 FR 82324 (December 30, 2011) (SR–NYSEAmex–2011–104); 67497 (July 25, 2012), 77 FR 45404 (July 31, 2012) (SR–NYSEMKT–2012–25); and 68561 (January 2, 2013), 78 FR 1290 (January 8, 2013) (SR–NYSEMKT–2012–86).

[5] *See* Securities Exchange Act Release No. 58863 (October 27, 2008), 73 FR 65417 (November 3, 2008) (File No. S7–24–89). The Exchange's predecessor, the American Stock Exchange LLC, joined the UTP Plan in 2001. *See* Securities Exchange Act Release No. 55647 (April 19, 2007), 72 FR 20891 (April 26, 2007) (File No. S7–24–89). In March 2009, the Exchange changed its name to NYSE Amex LLC, and, in May 2012, the Exchange subsequently changed its name to NYSE MKT LLC. *See* Securities Exchange Act Release Nos. 59575 (March 13, 2009), 74 FR 11803 (March 19, 2009) (SR–NYSEALTR–2009–24) and 67037 (May 21, 2012), 77 FR 31415 (May 25, 2012) (SR–NYSEAmex–2012–32).

[6] 15 U.S.C. 78l.

[7] "Nasdaq Securities" is included within the definition of "security" as that term is used in the NYSE MKT Equities Rules. *See* NYSE MKT Rule 3—Equities. In accordance with this definition, Nasdaq Securities are admitted to dealings on the Exchange on an "issued," "when issued," or "when distributed" basis. *See* NYSE MKT Rule 501—Equities.

[8] *See* NYSE MKT Rule 103—Equities.

[9] *See* Securities Exchange Act Release No. 60758 (October 1, 2009), 74 FR 51639 (October 7, 2009) (SR–NYSEAmex–2009–65). *See also* Securities Exchange Act Release No. 61030 (November 19, 2009), 74 FR 62365 (November 27, 2009) (SR–NYSEAmex–2009–83); 61725 (March 17, 2010), 75 FR 14223 (March 24, 2010) (SR–NYSEAmex–2010–28); 62820 (September 1, 2010), 75 FR 54935 (September 9, 2010) (SR–NYSEAmex–2010–86); 63615 (December 29, 2010), 76 FR 611 (January 5, 2011) (SR–NYSEAmex–2010–123); 64773 (June 29, 2011), 76 FR 39453 (July 6, 2011) (SR–NYSEAmex–2011–43); 66042 (December 23, 2011), 76 FR 82326 (December 30, 2011) (SR–NYSEAmex–2011–102); 67495 (July 25, 2012), 77 FR 45406 (July 31, 2012) (SR–NYSEMKT–2012–21); and 68559 (January 2, 2013), 78 FR 1286 (January 8, 2013) (SR–NYSEMKT–2012–84).

[10] 15 U.S.C. 78.

[11] *See* SR–NYSEAmex–2010–31, *supra* note 4, at 41271.

assignment of securities to DMMs are substantially similar to the rules implemented through the NMM Pilot.[12] The Exchange has similarly filed to extend the operation of the NMM Pilot until the earlier of Commission approval to make the NMM Pilot permanent or January 31, 2014.[13]

Extension of the UTP Pilot Program in tandem with the NMM Pilot, both from July 31, 2013 until the earlier of Commission approval to make such pilots permanent or January 31, 2014, will provide for the uninterrupted trading of Nasdaq Securities on the Exchange on a UTP basis and thus continue to encourage the additional utilization of, and interaction with, the Exchange, and provide market participants with improved price discovery, increased liquidity, more competitive quotes and greater price improvement for Nasdaq Securities.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Exchange believes that its proposal to extend the UTP Pilot Program is consistent with (i) Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; (ii) Section 11A(a)(1) of the Act,[16] in that it seeks to ensure the economically efficient execution of securities transactions and fair competition among brokers and dealers and among exchange markets; and (iii) Section 12(f) of the Act,[17] which governs the trading of securities pursuant to UTP consistent with the maintenance of fair and orderly markets, the protection of investors and the public interest, and the impact of extending the existing markets for such securities.

Specifically, the Exchange believes that extending the UTP Pilot Program would provide for the uninterrupted trading of Nasdaq Securities on the Exchange on a UTP basis and thus continue to encourage the additional utilization of, and interaction with, the Exchange, thereby providing market participants with additional price discovery, increased liquidity, more competitive quotes and potentially greater price improvement for Nasdaq Securities. Additionally, under the UTP Pilot Program, Nasdaq Securities trade on the Exchange pursuant to rules governing the trading of Exchange-Listed securities that previously have been approved by the Commission. Accordingly, this proposed rule change would permit the Exchange to extend the effectiveness of the UTP Pilot Program in tandem with the NMM Pilot, which the Exchange has similarly proposed to extend until the earlier of Commission approval to make such pilot permanent or January 31, 2014.[18]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that are not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that extending the UTP Pilot Program will promote competition in the trading of Nasdaq Securities and thereby provide market participants with opportunities for improved price discovery, increased liquidity, more competitive quotes, and greater price improvement.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[19] and Rule 19b–4(f)(6) thereunder.[20] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEMKT–2013–53 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2013–53. 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

[12] *Id.*

[13] *See* SR–NYSEMKT–2013–51.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78k–1(a)(1).

[17] 15 U.S.C. 78l(f).

[18] *See supra* note 13.

[19] 15 U.S.C. 78s(b)(3)(A)(iii).

[20] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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 publicly available. All submissions should refer to File Number SR–NYSEMKT–2013–53 and should be submitted on or before July 18, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–15344 Filed 6–26–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69819; File No. SR–NYSE–2013–44]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Operation of Its Supplemental Liquidity Providers Pilot, Until the Earlier of the Securities and Exchange Commission's Approval To Make Such Pilot Permanent or January 31, 2014

June 21, 2013.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b-4 thereunder,[3] notice is hereby given that on June 17, 2013, New York Stock Exchange LLC ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The 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 proposes to [sic] extend the operation of its Supplemental Liquidity Providers Pilot ("SLP Pilot" or "Pilot") (See Rule 107B), currently scheduled to expire on July 31, 2013, until the earlier of the Securities and Exchange Commission's ("Commission") approval to make such Pilot permanent or January 31, 2014.

The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to extend the operation of its SLP Pilot,[4] currently scheduled to expire on July 31, 2013, until the earlier of Commission approval to make such Pilot permanent or January 31, 2014.

Background[5]

In October 2008, the NYSE implemented significant changes to its market rules, execution technology and the rights and obligations of its market participants all of which were designed to improve execution quality on the Exchange. These changes are all elements of the Exchange's enhanced market model referred to as the "New Market Model" ("NMM Pilot").[6] The SLP Pilot was launched in coordination with the NMM Pilot (*see* Rule 107B).

As part of the NMM Pilot, NYSE eliminated the function of specialists on the Exchange creating a new category of market participant, the Designated Market Maker or DMM.[7] Separately, the NYSE established the SLP Pilot, which established SLPs as a new class of market participants to supplement the liquidity provided by DMMs.[8]

The SLP Pilot is scheduled to end operation on July 31, 2013 or such earlier time as the Commission may determine to make the rules permanent. The Exchange is currently preparing a rule filing seeking permission to make the SLP Pilot permanent, but does not expect that filing to be completed and approved by the Commission before July 31, 2013.[9]

Proposal To Extend the Operation of the SLP Pilot

The NYSE established the SLP Pilot to provide incentives for quoting, to enhance competition among the existing group of liquidity providers, including the DMMs, and add new competitive market participants. The Exchange believes that the SLP Pilot, in

[21] 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. 58877 (October 29, 2008), 73 FR 65904 (November 5, 2008) (SR–NYSE–2008–108) (establishing the SLP Pilot). *See also* Securities Exchange Act Release Nos. 59869 (May 6, 2009), 74 FR 22796 (May 14, 2009) (SR–NYSE–2009–46) (extending the operation of the SLP Pilot to October 1, 2009); 60756 (October 1, 2009), 74 FR 51628 (October 7, 2009) (SR–NYSE–2009–100) (extending the operation of the NMM and the SLP Pilots to November 30, 2009); 61075 (November 30, 2009), 74 FR 64112 (December 7, 2009) (SR–NYSE–2009–119) (extending the operation of the SLP Pilot to March 30, 2010); 61840 (April 5, 2010), 75 FR 18563 (April 12, 2010) (SR–NYSE–2010–28) (extending the operation of the SLP Pilot to September 30, 2010); 62813 (September 1, 2010), 75 FR 54686 (September 8, 2010) (SR–NYSE–2010–62) (extending the operation of the SLP Pilot to January 31, 2011); 63616 (December 29, 2010), 76 FR 612 (January 5, 2011) (SR–NYSE–2010–86) (extending the operation of the SLP Pilot to August 1, 2011); 64762 (June 28, 2011), 76 FR 39145 (July 5, 2011) (SR–NYSE–2011–30) (extending the operation of the SLP Pilot to January 31, 2012); 66045 (December 23, 2011), 76 FR 82342 (December 30, 2011) (SR–NYSE–2011–66) (extending the operation of the SLP Pilot to July 31, 2012); 67493 (July 25, 2012), 77 FR 45388 (July 31, 2012) (SR–NYSE–2012–27) (extending the operation of the SLP Pilot to January 31, 2013); and 68560 (January 2, 2013), 78 FR 1280 (January 8, 2013) (SR–NYSE–2012–76) (extending the operation of the SLP Pilot to July 31, 2013).

[5] The information contained herein is a summary of the NMM Pilot and the SLP Pilot. *See supra* note 4 for a fuller description of those pilots.

[6] *See* Securities Exchange Act Release No. 58845 (October 24, 2008), 73 FR 64379 (October 29, 2008) (SR–NYSE–2008–46).

[7] *See* NYSE Rule 103.

[8] *See* NYSE Rule 107B. The Exchange amended the monthly volume requirements to an ADV that is a specified percentage of NYSE CADV. *See* Securities Exchange Act Release No. 67759 (August 30, 2012), 77 FR 54939 (September 6, 2012) (SR–NYSE–2012–38).

[9] The NMM Pilot was scheduled to expire on July 31, 2013. On June 14, 2013 the Exchange filed to extend the NMM Pilot until January 31, 2014. *See* (SR–NYSE–2013–42). *See also* Securities Exchange Act Release Nos. 78 FR 1288 (January 8, 2013) (SR–NYSE–2012–75) (extending the operation of the NMM Pilot to July 31, 2013), 67494 (July 25, 2012), 77 FR 45408 (July 31, 2012) (SR–NYSE–2012–26) (extending the operation of the NMM Pilot to January 31, 2013); 66046 (December 23, 2011), 76 FR 82340 (December 30, 2011) (SR–NYSE–2011–65) (extending the operation of the NMM Pilot to July 31, 2012); 64761 (June 28, 2011) 76 FR 39147 (July 5, 2011) (SR–NYSE–2011–29) (extending the operation of the NMM Pilot to January 31, 2012); 63618 (December 29, 2010) 76 FR 617 (January 5, 2011) (SR–NYSE–2010–85) (extending the operation of the NMM Pilot to August 1, 2011); 62819 (September 1, 2010), 75 FR 54937 (September 9, 2010) (SR–NYSE–2010–61) (extending the operation of the NMM Pilot to January 31, 2011); 61724 (March 17, 2010), 75 FR 14221 (SR–NYSE–2010–25) (extending the operation of the NMM Pilot to September 30, 2010); and 61031 (November 19, 2009), 74 FR 62368 (SR–NYSE–2009–113) (extending the operation of the NMM Pilot to March 30, 2010).

coordination with the NMM Pilot, allows the Exchange to provide its market participants with a trading venue that utilizes an enhanced market structure to encourage the addition of liquidity, facilitate the trading of larger orders more efficiently and operates to reward aggressive liquidity providers. As such, the Exchange believes that the rules governing the SLP Pilot (Rule 107B) should be made permanent. Through this filing the Exchange seeks to extend the current operation of the SLP Pilot until January 31, 2014, in order to allow the Exchange to formally submit a filing to the Commission to convert the Pilot rule to a permanent rule.[10]

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the "Act") for this proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that the instant filing is consistent with these principles because the SLP Pilot provides its market participants with a trading venue that utilizes an enhanced market structure to encourage the addition of liquidity and operates to reward aggressive liquidity providers. Moreover, the instant filing requesting an extension of the SLP Pilot will permit adequate time for: (i) the Exchange to prepare and submit a filing to make the rules governing the SLP Pilot permanent; (ii) public notice and comment; and (iii) completion of the 19b–4 approval process.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that extending the operation of the SLP Pilot will enhance competition among liquidity providers and thereby improve execution quality on the Exchange.

[10] The NYSE MKT SLP Pilot (NYSE MKT Rule 107B—Equities) is also being extended until January 31, 2014 or until the Commission approves it as permanent (*See* SR–NYSEMKT–2013–52).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [11] and Rule 19b–4(f)(6) thereunder.[12] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2013–44 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–2013–44. 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 publicly available. All submissions should refer to File Number SR–NYSE–2013–44 and should be submitted on or before July 18, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority. [13]

Jill M. Peterson,

Assistant Secretary.

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BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A)(iii).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69812; File No. SR–NYSEMKT–2013–51]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Operation of Its New Market Model Pilot, Until the Earlier of Securities and Exchange Commission Approval To Make Such Pilot Permanent or January 31, 2014

June 20, 2013.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on June 14, 2013, NYSE MKT LLC ("NYSE MKT" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The 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 extend the operation of its New Market Model Pilot, currently scheduled to expire on July 31, 2013, until the earlier of Securities and Exchange Commission ("Commission") approval to make such pilot permanent or January 31, 2014. 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to extend the operation of its New Market Model Pilot ("NMM Pilot") that was adopted pursuant to its merger with the New York Stock Exchange LLC ("NYSE").[4] The NMM Pilot was approved to operate until October 1, 2009. The Exchange filed to extend the operation of the Pilot to November 30, 2009, March 30, 2010, September 30, 2010, January 31, 2011, August 1, 2011, January 31, 2012, July 31, 2012, January 31, 2013, and July 31, 2013, respectively.[5] The Exchange now seeks to extend the operation of the NMM Pilot, currently scheduled to expire on July 31, 2013, until the earlier of Commission approval to make such pilot permanent or January 31, 2014.

The Exchange notes that parallel changes are proposed to be made to the rules of NYSE.[6]

[4] NYSE Euronext acquired The Amex Membership Corporation ("AMC") pursuant to an Agreement and Plan of Merger, dated January 17, 2008 (the "Merger"). In connection with the Merger, the Exchange's predecessor, the American Stock Exchange LLC ("Amex"), a subsidiary of AMC, became a subsidiary of NYSE Euronext called NYSE Alternext US LLC. *See* Securities Exchange Act Release No. 58673 (September 29, 2008), 73 FR 57707 (October 3, 2008) (SR–NYSE–2008–60 and SR-Amex–2008–62) (approving the Merger). Subsequently, NYSE Alternext US LLC was renamed NYSE Amex LLC, which was then renamed NYSE MKT LLC and continues to operate as a national securities exchange registered under Section 6 of the Securities Exchange Act of 1934, as amended (the "Act"). *See* Securities Exchange Act Release Nos. 59575 (March 13, 2009), 74 FR 11803 (March 19, 2009) (SR–NYSEALTR–2009–24) and 67037 (May 21, 2012), 77 FR 31415 (May 25, 2012) (SR–NYSEAmex–2012–32).

[5] *See* Securities Exchange Act Release No. 60758 (October 1, 2009), 74 FR 51639 (October 7, 2009) (SR–NYSEAmex–2009–65). *See also* Securities Exchange Act Release Nos. 61030 (November 19, 2009), 74 FR 62365 (November 27, 2009) (SR–NYSEAmex–2009–83) (extending Pilot to March 30, 2010); 61725 (March 17, 2010), 75 FR 14223 (March 24, 2010) (SR–NYSEAmex–2010–28) (extending Pilot to September 1, 2010); 62820 (September 1, 2010), 75 FR 54935 (September 9, 2010) (SR–NYSEAmex–2010–86) (extending Pilot to January 31, 2011); 63615 (December 29, 2010), 76 FR 611 (January 5, 2011) (SR–NYSEAmex–2010–123) (extending Pilot to August 1, 2011); 64773 (June 29, 2011), 76 FR 39453 (July 6, 2011) (SR–NYSEAmex–2011–43) (extending Pilot to January 31, 2012); 66042 (December 23, 2011), 76 FR 82326 (December 30, 2011) (SR–NYSEAmex–2011–102) (extending Pilot to July 31, 2012); 67495 (July 25, 2012), 77 FR 45406 (July 31, 2012) (SR–NYSEMKT–2012–21) (extending the Pilot to January 31, 2013); and 68559 (January 2, 2013), 78 FR 1286 (January 8, 2013) (SR–NYSEMKT–2012–84) (extending Pilot to July 31, 2013).

[6] *See* SR–NYSE–2013–43.

Background [7]

In December 2008, the Exchange implemented significant changes to its equities market rules, execution technology and the rights and obligations of its equities market participants all of which were designed to improve execution quality on the Exchange. These changes are all elements of the Exchange's enhanced market model that it implemented through the NMM Pilot.

As part of the NMM Pilot, the Exchange eliminated the function of equity specialists on the Exchange creating a new category of market participant, the Designated Market Maker or DMM.[8] The DMMs, like specialists, have affirmative obligations to make an orderly market, including continuous quoting requirements and obligations to re-enter the market when reaching across to execute against trading interest. Unlike specialists, DMMs have a minimum quoting requirement [9] in their assigned securities and no longer have a negative obligation. DMMs are also no longer agents for public customer orders.[10]

In addition, the Exchange implemented a system change that allowed DMMs to create a schedule of additional non-displayed liquidity at various price points where the DMM is willing to interact with interest and provide price improvement to orders in the Exchange's system. This schedule is known as the DMM Capital Commitment Schedule ("CCS").[11] CCS provides the Display Book® [12] with the amount of shares that the DMM is willing to trade at price points outside, at and inside the Exchange Best Bid or Best Offer ("BBO"). CCS interest is separate and distinct from other DMM interest in that it serves as the interest of last resort.

The NMM Pilot further modified the logic for allocating executed shares

[7] The information contained herein is a summary of the NMM Pilot. *See* Securities Exchange Act Release No. 58845 (October 24, 2008), 73 FR 64379 (October 29, 2008) (SR–NYSE–2008–46) for a fuller description.

[8] *See* NYSE MKT Rule 103—Equities.

[9] *See* NYSE MKT Rule 104—Equities.

[10] *See* NYSE MKT Rule 60—Equities; *see also* NYSE MKT Rules 104—Equities and 1000—Equities.

[11] *See* NYSE MKT Rule 1000—Equities.

[12] The Display Book system is an order management and execution facility. The Display Book system receives and displays orders to the DMMs, contains the order information, and provides a mechanism to execute and report transactions and publish the results to the Consolidated Tape. The Display Book system is connected to a number of other Exchange systems for the purposes of comparison, surveillance, and reporting information to customers and other market data and national market systems.

among market participants having trading interest at a price point upon execution of incoming orders. The modified logic rewards displayed orders that establish the Exchange's BBO. During the operation of the NMM Pilot, orders or portions thereof that establish priority [13] retain that priority until the portion of the order that established priority is exhausted. Where no one order has established priority, shares are distributed among all market participants on parity.

The NMM Pilot was originally scheduled to end operation on October 1, 2009, or such earlier time as the Commission may determine to make the rules permanent. The Exchange filed to extend the operation of the Pilot on several occasions [14] in order to prepare a rule filing seeking permission to make the above described changes permanent. The Exchange is currently still preparing such formal submission but does not expect that filing to be completed and approved by the Commission before July 31, 2013.

Proposal To Extend the Operation of the NMM Pilot

The Exchange established the NMM Pilot to provide incentives for quoting, to enhance competition among the existing group of liquidity providers and to add a new competitive market participant. The Exchange believes that the NMM Pilot allows the Exchange to provide its market participants with a trading venue that utilizes an enhanced market structure to encourage the addition of liquidity, facilitate the trading of larger orders more efficiently and operates to reward aggressive liquidity providers. As such, the Exchange believes that the rules governing the NMM Pilot should be made permanent. Through this filing the Exchange seeks to extend the current operation of the NMM Pilot until January 31, 2014, in order to allow the Exchange time to formally submit a filing to the Commission to convert the pilot rules to permanent rules.

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the "Act") for this proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that this filing is consistent with these principles because the NMM Pilot provides its market participants with a trading venue that utilizes an enhanced market structure to encourage the addition of liquidity, facilitate the trading of larger orders more efficiently and operates to reward aggressive liquidity providers. Moreover, requesting an extension of the NMM Pilot will permit adequate time for: (i) The Exchange to prepare and submit a filing to make the rules governing the NMM Pilot permanent; (ii) public notice and comment; and (iii) completion of the 19b–4 approval process.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that extending the operation of the NMM Pilot will enhance competition among liquidity providers and thereby improve execution quality on the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [15] and Rule 19b–4(f)(6) thereunder.[16] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEMKT–2013–51 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2013–51. 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

[13] *See* NYSE MKT Rule 72(a)(ii)—Equities.

[14] *See supra* note 5.

[15] 15 U.S.C. 78s(b)(3)(A)(iii).

[16] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–NYSEMKT–2013–51 and should be submitted on or before July 18, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–15342 Filed 6–26–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69826; File No. SR–NYSEArca–2013–66]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Making Non-Substantive, Technical Amendments to Exchange Rule 6.62(o) Correcting Cross Reference to Exchange Rule 6.76B, and to Exchange Rule 6.76A To Correct Cross References to Exchange Rules 6.76A and 6.76B

June 21, 2013.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on June 20, 2013, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I 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 make non-substantive, technical amendments to Exchange Rule 6.62(o) to correct a cross reference to Exchange Rule 6.76B, and to Exchange Rule 6.76A to correct cross references to Exchange Rules 6.76A and 6.76B. 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, on the Commission's Web site at *http://www.sec.gov*, 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to make a non-substantive, technical correction to Exchange Rule 6.62(o), in order to update a cross reference to Exchange Rule 6.76B. Current Rule 6.62(o) incorrectly cross references Rule 6.76B with respect to the routing instructions for NOW Orders. The Exchange proposes to correct the citation to cross reference Rule 6.76A.

The Exchange is also proposing to make two non-substantive, technical corrections to Exchange Rule 6.76A(c)(1)(A), and to make the same two non-substantive, technical corrections to Exchange Rule 6.76A(c)(2)(C), in order to update cross references in each to Exchange Rules 6.76A and 6.76B. Current Rule 6.76A(c)(1)(A) and Rule 6.76A(c)(2)(C) each incorrectly cross references Rule 6.76A with respect to the order ranking and display provisions governing routing away. The Exchange proposes to correct the citation in each rule to cross reference Rule 6.76. Rule 6.76A(c)(1)(A) and Rule 6.76A(c)(2)(C) also each incorrectly cross references Rule 6.76B with respect to the order execution provisions governing routing away. The Exchange proposes to correct the citation in each rule to cross reference Rule 6.76A.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Section 6(b)(5),[5] 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. The Exchange believes it is appropriate to make technical corrections to its rules so that Exchange members and investors have a clear and accurate understanding of the meaning of the Exchange's rules. The correction of the cross references in Rules 6.62(o) and 6.76A will serve to eliminate a potential source of confusion for Exchange Participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change is non-substantive and therefore does not implicate the competition analysis.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[6] and Rule 19b–4(f)(6) thereunder.[7] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[8] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[9] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6)(iii).

immediately upon filing. The Exchange stated believes that this proposal is non-controversial and will not significantly affect the protection of investors because the Exchange is not proposing any substantive changes and is merely correcting inaccuracies in the Exchange's rules. According to the Exchange, the correction of the inaccurate cross references in the Exchange's rules will eliminate member confusion and provide clarity on how the rules apply. Based on the Exchange's statements, the Commission believes that waiving the operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby grants the Exchange's request and waives the 30-day operative delay.[10]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File No. SR–NYSEArca–2013–66 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 No. SR–NYSEArca–2013–66. 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 No. SR–NYSEArca–2013–66 and should be submitted on or before July 18, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2013–15365 Filed 6–26–13; 8:45 am]

BILLING CODE 8011–01–P

[10] For purposes only of waiving the operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69822; File No. SR–NYSEMKT–2013–58]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Replacing References to "Principle Executive" With References to "Principal Executive" in the Exchange's Rules

June 21, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b–4 thereunder, notice is hereby given that on June 20, 2013, NYSE MKT LLC (the "Exchange" or "NYSE MKT") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to replace references to "principle executive" with references to "principal executive" in the Exchange's rules. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to replace references to "principle executive" with references to "principal executive" in the Exchange's rules.

Currently, certain equities rules (Rules 98—Equities, 104T—Equities, 105—Equities, 113—Equities, 122—Equities, 123—Equities, 309—Equities, 344—Equities) and certain disciplinary rules applicable to the Exchange's equities and options markets (Rules 475, 476, and 477 in Section 9A of the Office Rules) contain references to "principle executive." The Exchange proposes to replace these references with references to "principal executive." The term "principal executive" appears in over 40 other Exchange rules, and references to "principle executive" are simply misspellings. In addition, certain of the Exchange's rules are based on the rules of its affiliate, the New York Stock Exchange ("NYSE"), and the NYSE uses the term "principal executive" exclusively. The purpose of the proposal is to make the terminology in the Exchange's rules more consistent.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with

Section 6(b) of the Act,[1] in general, and furthers the objectives of Section 6(b)(5) of the Act,[2] in particular, because it promotes just and equitable principles of trade, removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general, helps to protect investors and the public interest by implementing consistent terminology throughout the Exchange's rules. The Exchange further believes that the proposal removes impediments to and perfects the mechanism of a free and open market by ensuring that member organizations, regulators, and the public can more easily understand and navigate the Exchange's rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not designed to address any competitive issue but rather would implement consistent terminology throughout the Exchange's rules, thereby reducing confusion, and making the Exchange's rules easier to understand and navigate.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[5] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[6] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Granting the waiver allows the Exchange to correct a typographical error immediately, thereby eliminating any confusion generated by the mistake without delay. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[7]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[8] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEMKT–2013–58 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2013–58. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2013–58 and should be submitted on or before July 18, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2013–15348 Filed 6–26–13; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78f(b).

[2] 15 U.S.C. 78f(b)(5).

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] 17 CFR 240.19b–4(f)(6).

[6] 17 CFR 240.19b–4(f)(6)(iii).

[7] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78s(b)(2)(B).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69825; File No. SR–FINRA–2013–018]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving Proposed Rule Change Relating to FINRA Rule 8313 (Release of Disciplinary Complaints, Decisions and Other Information) as Modified by Amendment No. 1

June 21, 2013.

I. Introduction

On March 5, 2013, the Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 ("Act"),[2] and Rule 19b–4 thereunder,[3] a proposed rule change to amend FINRA Rule 8313 (Release of Disciplinary Complaints, Decisions and Other Information), which governs the release of disciplinary and other information by FINRA to the public. In addition, the proposed rule change would make conforming amendments to certain rules in the FINRA Rule 9000 Series (Code of Procedure) and add a provision to FINRA Rule 9268 (Decision of Hearing Panel or Extended Hearing Panel) regarding the effective date of sanctions. The proposed rule change was published for comment in the **Federal Register** on March 25, 2013.[4] The Commission received five comment letters on the proposal.[5] On June 17, 2013, FINRA responded to the comments [6] and filed Amendment No. 1 to the proposed rule change.[7] This order approves the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposal

As further described below, FINRA proposes to amend Rule 8313 to establish general standards for the release of disciplinary information to the public. The amendment would provide greater information regarding FINRA's disciplinary actions, clarify the scope of information subject to Rule 8313 and eliminate from the rule provisions that do not address the release of information by FINRA to the public. The proposed rule would also make conforming amendments to certain rules in the FINRA Rule 9000 Series and add a provision to FINRA Rule 9268 regarding the effective date of sanctions.

A. Disciplinary Complaints and Disciplinary Decisions

Rule 8313(a) currently provides that in response to a request, FINRA shall release any identified disciplinary complaint or disciplinary decision issued by FINRA (or any subsidiary or Committee thereof) to the requesting party. Absent a specific request for an identified complaint or decision, Rule 8313 provides publicity thresholds for the release of information with respect to disciplinary complaints and disciplinary decisions to the public.[8]

The publicity thresholds of Rule 8313(b)(1) currently require FINRA to make public information with respect to any disciplinary complaint that contains an allegation of a violation of a "designated" statute, rule, or regulation of the Commission, FINRA, or the Municipal Securities Rulemaking Board ("MSRB"), as determined by the FINRA Regulation Board of Directors ("Board").[9] In addition, FINRA may release to the public information with respect to any complaint or group of complaints that involves a significant policy or enforcement determination where release of the information is deemed by FINRA's Chief Executive Officer ("CEO") (or such other senior officer as the CEO may designate) to be in the public interest.

Pursuant to the current publicity thresholds of Rule 8313(c)(1), FINRA releases to the public information with respect to any disciplinary decision that: (1) Imposes a suspension, cancellation, or expulsion of a member; (2) imposes a suspension or revocation of the registration of an associated person; (3) imposes a suspension or bar of a member or associated person from association with all members; (4) imposes monetary sanctions of $10,000 or more upon a member or associated person; or (5) contains an allegation of a violation of a designated rule. FINRA may also release information with respect to any disciplinary decision or group of decisions that involves a significant policy or enforcement determination where its release is deemed by FINRA's CEO, or his designee, to be in the public interest. Current Rule 8313(c)(1) contains an omnibus provision permitting FINRA to release information on any disciplinary or other decision issued pursuant to the Rule 9000 Series not specifically enumerated, regardless of the sanctions imposed, if the names of the parties and other identifying information is redacted. Rule 8313(c)(1)(A) and (c)(1)(B) currently sets forth redaction standards for the release of information with respect to disciplinary decisions where information regarding the decision has previously been released to the public in unredacted form, where only certain respondents in a decision on appeal meet one or more of the publicity thresholds, or where an underlying Office of Hearing Officers ("OHO") decision meets a publicity threshold, but a later National Adjudicatory Council ("NAC") decision on the matter does not meet a threshold.

The FINRA Disciplinary Actions online database ("FDA") became available in May 2011. It provides interested parties with greater access to information regarding FINRA's disciplinary actions.[10] The FDA contains copies of FINRA's disciplinary actions (dating back to early 2005) that are eligible for publication under Rule

[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. 69178 (March 25, 2013), 78 FR 17975 ("Notice").

[5] *See* Letters from William A. Jacobson, Associate Clinical Professor of Law and Ali N. Wright, Cornell Law Student, Cornell Law School, to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, dated April 15, 2013 ("Cornell Letter"); David T. Bellaire, Executive Vice President and General Counsel, Financial Services Institute, to Elizabeth M. Murphy, Secretary, Commission, dated April 15, 2013 ("FSI Letter"); Jenice L. Malecki, Malecki Law, to Elizabeth M. Murphy, Secretary, Commission, dated April 15, 2013 ("Malecki Letter"); Jason R. Doss, Executive Vice President/President-Elect, Public Investors Arbitration Bar Association, to Elizabeth M. Murphy, Secretary, Commission, dated April 15, 2013 ("PIABA Letter"); Kevin M. Carroll, Managing Director and Associate General Counsel, to Elizabeth M. Murphy, Secretary, Commission, dated April 15, 2013 ("SIFMA Letter").

[6] *See* Letter from Erika Lazar, Assistant General Counsel, FINRA, to Elizabeth M. Murphy, Secretary, Commission, dated June 17, 2013.

[7] In Amendment No. 1, FINRA proposes to amend the proposed rule change to retain the requirement in Rule 8313(a) that in response to a request, FINRA will release a copy of any identified disciplinary complaint or disciplinary decision to the requesting party. FINRA proposed to eliminate this provision in light of the proposed adoption of general standards for the release of disciplinary complaints, disciplinary decisions, and other information to the public. However, FINRA believes that maintaining this provision in the proposed rule clarifies that FINRA will continue to respond to requests for, and provide access to, identified complaints and decisions. The amendment is technical and therefore not subject to notice and comment.

[8] Rule 8313 provides for the release of "information with respect to" disciplinary complaints and decisions in light of FINRA's practice to issue, in addition to the complaints or decisions themselves, information, for example, in press releases or summaries of complaints and decisions that meet the current publicity thresholds, or are otherwise permitted to be released under the rule.

[9] FINRA has identified the rules in NASD *Notice to Members* 97–42 (July 1997).

[10] The FDA is available at *http://www.finra.org/Industry/Enforcement/DisciplinaryActions/FDAS/*

8313. Interested parties may search the database to obtain copies of disciplinary complaints and disciplinary decisions as well as to find actions involving violations of a particular rule or statute, or other criteria of interest to them.[11] However, the publicity thresholds in Rule 8313 limit disciplinary information available for publication in the FDA (or otherwise available for release by FINRA).

FINRA proposes to eliminate the restrictions on publication by eliminating the provision addressing the release of "identified" disciplinary complaints and disciplinary decisions in Rule 8313(a) as well as the publicity thresholds in 8313(b)(1) and (c)(1).[12] In their place, the proposed rule change would adopt general standards for the release of disciplinary complaints, disciplinary decisions, and other information to the public. Specifically, under proposed Rule 8313(a) FINRA will release to the public a copy of, and in FINRA's discretion, information with respect to any disciplinary complaint or disciplinary decision it issues.[13] Subject to limited exceptions, FINRA would release such information in unredacted form.[14]

B. Temporary Cease and Desist Orders ("TCDOs")

Rule 8313(c)(1) currently states that FINRA shall release to the public information with respect to any TCDO. The proposed rule change would retain this provision with minor changes as part of proposed Rule 8313(a)(2) to provide that FINRA will release to the public a copy of, and in FINRA's discretion information with respect to, any order or decision issued by FINRA under the Rule 9800 Series.

C. Statutory Disqualification Decisions

Rule 8313 does not address the release of statutory disqualification decisions to the public. Pursuant to the omnibus provision in Rule 8313(c)(1), discussed above, FINRA currently releases information on statutory disqualification decisions issued by the NAC pursuant to the Rule 9520 Series with the names of members and associated persons redacted. In addition, FINRA currently does not disclose the identity of the statutorily disqualified individuals or member firms. Under proposed Rule 8313(a)(2) FINRA will release to the public unredacted copies of, and in FINRA's discretion, information with respect to statutory disqualification decisions, notifications, and notices issued pursuant to the Rule 9520 Series by either the NAC or FINRA's Member Regulation Department ("Member Regulation") that will be filed with the SEC.[15]

D. Expedited Proceeding Decisions

Rules 9552 through 9558 [16] currently provide a procedural mechanism for FINRA to address certain types of misconduct (*e.g.*, a failure to pay fees or dues or a failure to meet eligibility or qualification standards) more expeditiously than would be possible using the FINRA disciplinary process.

Rule 8313(c)(1) currently states that FINRA may release to the public information with respect to any decision issued pursuant to the Rule 9550 Series imposing a suspension or cancellation of a member, or a suspension or bar of the association of a person with a member, unless FINRA determines otherwise. Separately, the "Notice to Membership" provisions in Rules 9552 through 9556 and 9558 through 9559 currently state that FINRA shall provide notice of any final action it takes under the rules in the next notice of Disciplinary and Other FINRA Actions. The Notice to Membership provision in Rule 9557 requires notice when FINRA imposes a suspension pursuant to the rule, but does not reference final FINRA action because the procedural mechanisms in Rule 9557 differ from the other rules in the expedited proceedings series.

Proposed Rule 8313(a)(2) would require FINRA to release to the public information with respect to any suspension, cancellation, expulsion or bar that constitutes final FINRA action imposed pursuant to Rules 9552 through 9556 and 9558 and information with respect to any suspension imposed pursuant to Rule 9557. FINRA would also be required to release a copy of, and information with respect to, any decision issued pursuant to Rule 9559 (Hearing Procedures for Expedited Proceedings under the Rule 9550 Series) that constitutes final FINRA action. Accordingly, the proposed rule change would delete the "Notice to Membership" provisions in Rules 9552 through 9559.

E. Summary Actions

Rule 8313 currently does not specifically address the release of information regarding summary actions taken by FINRA pursuant to Rule 8320 (Payment of Fines, Other Monetary Sanctions, or Costs; Summary Action for Failure to Pay). Proposed Rule 8313(a)(3) would codify FINRA's practice by expressly requiring FINRA to release to the public information with respect to the summary suspension or expulsion of a member or the summary revocation of the registration of a person associated with a member for a failure to pay fines, other monetary sanctions, or costs pursuant to Rule 8320.

F. Membership and Continuing Membership Application ("MAP") Appeals

Rule 8313(l) currently provides that FINRA shall release to the public, in the form issued by the NAC, information with respect to any MAP appeal decision issued by the NAC pursuant to NASD Rule 1015 (Review by National Adjudicatory Council). The NAC in its discretion may redact certain information from such decisions before they are issued.

Proposed Rule 8313(a)(4) would require FINRA to release to the public a copy of, and in FINRA's discretion, information with respect to any MAP appeal decision issued by FINRA pursuant to NASD Rules 1015 and 1016 (Discretionary Review by FINRA Board). The proposed rule would also require FINRA to release copies of, and information with respect to, such decisions to the public in redacted form; provided, however, the NAC or the Board, in its discretion, may determine

[11] The FDA also includes decisions issued by the SEC and federal appellate courts that relate to FINRA disciplinary actions that have been appealed.

[12] In light of the elimination of the publicity thresholds, the proposed rule change also would delete from Rule 8313 the redaction standards made necessary by the publicity thresholds in current paragraphs (c)(1)(A) and (c)(1)(B).

[13] The proposed rule change would eliminate as unnecessary references to "groups of" disciplinary complaints and disciplinary decisions. *See* Rule 8313(b)(1) and (c)(1). FINRA does not view the proposed rule change as distinguishing between the release of individual, versus groups of, disciplinary complaints and disciplinary decisions.

[14] *See* Notice at 6.

[15] All statutory disqualification decisions issued by the NAC are filed with the Commission. In contrast, depending on the nature of the disqualifying event, Member Regulation may or may not have to file a notice of its approval of an application for relief (referred to as a 19h–1 notice or notification) with the Commission. For example, Member Regulation may approve the association of a person without filing a 19h–1 notice or notification with the SEC when the disqualifying event consists of an injunction that was entered more than 10 years ago. *See also* Rule 19h–1 under the Act.

[16] *See* Rule 9552 (Failure to Provide Information or Keep Information Current), Rule 9553 (Failure to Pay FINRA Dues, Fees and Other Charges), Rule 9554 (Failure to Comply with an Arbitration Award or Related Settlement or an Order of Restitution or Settlement Providing for Restitution), Rule 9555 (Failure to Meet the Eligibility or Qualification Standards or Prerequisites for Access to Services), Rule 9556 (Failure to Comply with Temporary and Permanent Cease and Desist Orders), Rule 9557 (Procedures for Regulating Activities Under Rules 4110, 4120 and 4130 Regarding a Member Experiencing Financial or Operational Difficulties), and Rule 9558 (Summary Proceedings for Actions Authorized by Section 15A(h)(3) of the Act).

to release such decisions and information in unredacted form.

G. Permissive Publication of Certain Decisions and Notices

FINRA does not currently publish decisions or notices issued pursuant to Rule 6490 and the Rule 9700 Series. However, if FINRA determines that there is public benefit to releasing a specific decision or notice issued under these rules to provide guidance to other firms or to alert the public to an investor protection issue, it would do so.[17] The proposed rule change would add Rule 8313(a)(5) that would permit FINRA to release to the public a copy of, and information with respect to, any decision or notice issued pursuant to Rule 6490 (Processing of Company-Related Actions),[18] the Rule 9600 Series (Procedures for Exemptions),[19] the Rule 9700 Series (Procedures on Grievances Concerning the Automated Systems),[20] and any other decision appealable to the Commission under Section 19(d) of the Act.

FINRA currently posts to its Web site exemption decisions for several rules listed in Rule 9610, in large part, to provide guidance to members, investors, and other interested parties to assist them in understanding the rationale for the decisions to grant or deny requests for exemptive relief.[21] With respect to exemption decisions, the proposed rule change would permit exemption decisions issued under the Rule 9600 Series to be released to the public because Rule 9610, which governs the application for exemptive relief, authorizes members to request relief from a diverse set of member conduct rules. Proposed Rule 8313(a)(5) would also provide for the release of "any other decision" appealable to the Commission under Section 19(d) of the Act.

H. Publication of Information Deemed by FINRA's CEO To Be in the Public Interest

As discussed above, notwithstanding the existing publicity thresholds, FINRA Rule 8313(b)(1) and (c)(1) currently allows FINRA to release information with respect to any disciplinary complaint or disciplinary decision that involves a significant policy or enforcement determination where the release of such information is deemed by FINRA's CEO to be in the public interest. Consistent with these provisions, proposed Rule 8313(a)(6) would allow FINRA to release to the public a copy of, and information with respect to, any complaint, decision, order, notification, or notice issued under FINRA rules, where the release of such information is deemed by FINRA's CEO (or such other senior officer as the CEO may designate) to be in the public interest.

I. Release Specifications

Rule 8313 currently requires copies of, and information with respect to, disciplinary complaints and disciplinary decisions released to the public to be accompanied by certain disclosure statements regarding their status.[22] Proposed Rule 8313(b)(1) would modify the disclosure to state that a disciplinary complaint represents the initiation of a formal proceeding by FINRA in which findings as to the allegations in the complaint have not been made and does not represent a decision as to any of the allegations contained in the complaint.

Similarly, Rule 8313(a)(2) through (a)(4) and (c)(2) currently requires copies of, and information with respect to, disciplinary decisions released to the public to be accompanied by disclosure statements. Proposed Rule 8313(b)(2) would require copies of, and information with respect to, any disciplinary decision or other decision, order, notification, or notice released to the public pursuant to Rule 8313(a) before the time period provided for an appeal or call for review has expired, to indicate that the findings and sanctions imposed therein are subject to review and modification by FINRA or the Commission. Disclosures relating to a pending appeal or call for review will include the same information.

J. Discretion To Redact Certain Information or Waive Publication

As discussed above, FINRA has determined that, subject to limited exceptions, disciplinary information should be released to the public in unredacted form. With respect to the limited exceptions, proposed Rule 8313(c)(1) would permit FINRA, notwithstanding the requirements of proposed Rule 8313(a), to redact, on a case-by-case basis, confidential customer information, including customer identities, or information that raises significant identity theft, personal safety, or privacy concerns that are not outweighed by investor protection concerns. FINRA takes the same approach with respect to the release of information in BrokerCheck.[23]

Similarly, proposed Rule 8313(c)(2) would adopt with minor changes a statement from current Rule 8313(c)(1) that provides FINRA with discretion to waive the requirement to release a disciplinary or other decision. The proposed rule change would expand this provision to give FINRA discretion to waive the requirement to release any item under paragraph (a) of the proposed rule. Accordingly, proposed Rule 8313(c)(2) would provide that notwithstanding paragraph (a) of the proposed rule, FINRA may determine, in its discretion, to waive the requirement to release a copy of, or information with respect to, any disciplinary complaint, disciplinary decision or other decision, order, notification, or notice under those extraordinary circumstances where the release of such information would violate fundamental notions of fairness or work an injustice.

K. Notification of Appeals of FINRA Decisions

Rule 8313(g) currently requires FINRA to provide notice to the membership and the press when a FINRA disciplinary decision that meets certain publicity thresholds has been appealed to the Commission. The notice must be released as soon as possible after the Commission notifies FINRA of the appeal and it must state whether the effectiveness of the Board's decision has been stayed pending the outcome of proceedings before the Commission. Proposed Rule 8313(d) would adopt this provision with minor changes eliminating the publicity thresholds and the limitation on notification to the membership and the press. Under the proposed rule FINRA must provide notice to the public when a disciplinary

[17] In general, FINRA does not release copies of, or information with respect to, decisions or notices addressing company-related actions or grievances concerning the automated systems.

[18] Under Rule 6490, FINRA's Operations Department reviews and processes documents related to announcements for Exchange Act Rule 10b–17 Actions and Other Company-Related Actions to facilitate the orderly trading and settlement of OTC securities.

[19] The Rule 9600 Series allows a member seeking exemptive relief, as permitted under certain FINRA and NASD rules and MSRB Rule G–37, to file a written application with the appropriate department or staff of FINRA. The proposed rule change would make conforming amendments to Rule 9620, which governs exemption decisions issued under the Rule 9600 Series, to reflect the permissive nature of proposed Rule 8313(a)(5).

[20] The Rule 9700 Series sets forth procedures for redress for persons aggrieved by the operations of any automated quotation, execution, or communication system owned or operated by FINRA, or its subsidiaries, and approved by the SEC, not otherwise provided for by the FINRA rules.

[21] Consistent with current practice under the Rule 9600 Series, FINRA will continue to consider statements included by an applicant to show good cause to treat a decision as confidential in whole or in part.

[22] *See* Notice at 16.

[23] *See* Rule 8312(d) (FINRA BrokerCheck Disclosure).

decision of FINRA is appealed to the Commission and the notice shall state whether the effectiveness of the decision has been stayed pending the outcome of proceedings before the Commission.

The proposed rule change would delete Rule 8313(h) and (i) because they limit notice to the membership based on the publicity thresholds that would be eliminated under proposed Rule 8313(d). FINRA notes that the FDA includes decisions issued by federal appellate courts that relate to FINRA disciplinary actions that have been appealed.

L. Provisions Outside the Scope of Rule 8313

Certain provisions in the current Rule 8313 are outside the purview of the rule, which is intended solely to address the release of disciplinary and other information by FINRA to the public. FINRA moved those provisions to other rules as appropriate.[24] FINRA has indicated that it would announce the effective date of the proposed rule change in a *Regulatory Notice* to be published no later than 60 days following Commission approval, and that the effective date will be no later than 120 days following publication of the *Regulatory Notice* announcing Commission approval. Once effective, the proposed rule change will govern the release of disciplinary and other information for all new and pending matters.[25]

III. Summary of Comment Letters and FINRA's Response

As noted above, the Commission received five comment letters on the proposed rule change.[26] The comment letters expressed general support for FINRA's initiative, but each comment letter raised concerns with particular aspects of the proposal. The comments and FINRA's response[27] thereto is summarized below.

A. Comments Relating To General Release Standards

One commenter opposed the elimination of the requirement that FINRA release identified complaints and decisions to the requesting party, arguing that removal of the requirement for FINRA to release such information makes FINRA's obligation to respond to requests unclear.[28] The commenter noted that some information can only be obtained by a request to FINRA, such as pre-2005 decisions that are not posted on the FDA, and that absent an express mechanism to access the information, investors will not be aware that they can request the information directly from FINRA.[29] In response to this concern, FINRA amended the proposed rule change to retain the requirement in Rule 8313 that FINRA release identified complaints and decisions to a requesting party.[30]

Another commenter expressed concern about the discretion FINRA would have regarding whether to release information with respect to disciplinary complaints and disciplinary decisions to the public, and requested that FINRA provide guidance on its discretionary powers.[31] In response, FINRA explained that its current practice is to issue information, such as press releases or monthly summaries of complaints or decisions, along with the disciplinary complaints and decisions it releases.[32] FINRA stated that it intends to continue its practice of releasing monthly summaries of complaints and decisions, and with respect to the issuance of press releases in connection with disciplinary decisions, issue press releases in situations where there is a significant policy or investor protection reason to do so.[33] FINRA, however, stated that it does not believe that it necessary or appropriate to further delineate the specific circumstance when it may release such summary information or press releases.[34]

Another commenter suggested that complaints that have been dismissed or withdrawn not be posted on FDA and questioned the propriety of publicizing such complaints given that it draws attention to actions that pose reputational harm to firms and representatives, but were found lacking on the merits.[35] In response, FINRA stated that it believes that including the subsequent decision or order helps to ensure the public has a full understanding of the status of a filed disciplinary complaint.[36] FINRA also noted that complaints that have been withdrawn or dismissed are not removed from BrokerCheck, so they are publicly available through that source.[37] In addition, FINRA noted that the Commission does not remove the original Order Instituting Proceedings from the public record when an Administrative Law Judge grants a staff motion to withdraw a complaint or when the Commission, on appeal issues an opinion.

One commenter opposed FINRA's proposal to provide for the permissive publication of exemptive decisions or notices issued pursuant to the Rule 9600 Series (Procedures for Exemptions), and argued that publication should be mandatory.[38] The commenter suggested that FINRA should be required to identify and codify the criteria governing the exercise of its discretion to release exemption decisions.[39] In response, FINRA stated that it does not believe that mandatory publication of all exemption decisions would benefit members, investors, and other interested parties because Rule 9610 covers a diverse set of rules, and the exemption decisions and notices generally are not disciplinary in nature, are often highly fact-specific, and may contain proprietary and confidential information.[40]

B. Comments Relating To Release Specifications

One commenter opposed the proposed elimination of language from current Rule 8313(a)(1) that directs the recipient of a complaint to "contact the respondent before drawing any conclusions regarding the allegations in the complaint."[41] The commenter stated that this language is important because it provides notice to the public that firms are responsive to concerns relating to allegations and should be contacted with questions.[42] FINRA disagreed with the commenter, and asserted that the language is unnecessary because the recipient of information released pursuant to Rule 8313 can contact a respondent at any time.[43] Further, FINRA stated that it does not believe that its rules should be the basis to provide notice to the public that firms are responsive to concerns relating to allegations in a complaint.[44]

[24] *See* Notice at 21–22.

[25] Offers of settlement and AWCs are entered into with the express agreement that the publication of such items will be pursuant to Rule 8313. Accordingly, publication of any order accepting an offer of settlement or AWC entered into prior to the effective date of the proposed rule change would be governed by the version of the rule in effect as of the date of such offer or AWC.

[26] *See* note 5, *supra*. FINRA did not address the concerns raised by the SIFMA Letter that were outside the scope of the proposed rule.

[27] FINRA Letter.

[28] *See* PIABA Letter, p. 3.

[29] *Id.*

[30] *See* FINRA Letter, p. 2.

[31] *See* Cornell Letter, p. 2.

[32] *See* FINRA Letter, p. 2.

[33] *See* FINRA Letter, p. 3.

[34] *Id.*

[35] *See* FSI Letter, p. 3.

[36] *See* FINRA Letter, p. 3.

[37] *Id.*

[38] *See* PIABA Letter, p. 2.

[39] *See* PIABA Letter, p. 2–3.

[40] *See* FINRA Letter, p. 3.

[41] *See* FSI Letter, p. 3.

[42] *Id.*

[43] *See* FINRA Letter, p. 4.

[44] *Id.*

C. Comments Relating To Discretion To Redact Information or Waive Publication

Three commenters raised concerns about FINRA's proposed Rule 8313(c)(1) that would permit FINRA to redact, on a case-by-case basis, confidential customer information, and would provide FINRA with the discretion to waive the requirement to release a disciplinary or other decision under those extraordinary circumstances where the release of such information would violate fundamental notions of fairness or work an injustice.[45] More specifically, one commenter requested guidance regarding the circumstances under which FINRA would exercise the discretion to redact information or waive publication, and suggested accepting comment from members and the public on instances where the exercise of such discretion would be appropriate.[46] Another commenter stated that the phrase "violate fundamental notions of fairness or work an injustice" in the Rule is vague and could present challenges for uniform application.[47] The commenter suggested that if FINRA exercises its discretion to waive publication, it should release the type of document or the information being withheld, the date of the document, and the reason for withholding.[48] A third commenter opposed FINRA's discretion to waive publication stating that the deterrent effect of publication of disciplinary information would be undermined if certain information is withheld out of concern for firms and their associated persons.[49]

In response to these comments, FINRA stated that it believes it is necessary to balance investor protection benefits with the harm that might result if confidential customer information or information that raises personal safety or privacy concerns is released to the public when considering whether to release information.[50] FINRA believes that its proposed authority to redact, on a case-by-case basis, confidential customer information or information that raises identity theft, personal safety or privacy concerns that do not outweigh investor protection considerations is consistent with FINRA's approach with respect to the release of information in BrokerCheck pursuant to Rule 8312.[51] FINRA further believes that it is appropriate for it to retain its current discretionary authority to waive the requirement to release information to the public in the event FINRA is presented with truly unique circumstances where the release of information would violate fundamental notions of fairness or work an injustice.[52]

IV. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and rules and regulations thereunder applicable to a national securities association.[53] In particular, the Commission finds that the proposed rule change is consistent with Section 15(b)(6) of the Act,[54] which requires, among other things, that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that the proposed rule change promotes transparency, consistency across FINRA's programs, and clarity regarding the information FINRA releases to the public and will provide greater access to information regarding FINRA's disciplinary actions. As stated in the proposal, FINRA's current rules are inconsistent regarding release of information given that some information not disclosed under the current rule is publicly available through other resources. For example, BrokerCheck reports include unredacted summary information regarding a FINRA disciplinary action that FINRA is not permitted to release in the monthly notice of Disciplinary and Other FINRA Actions or in the FDA under the current publicity thresholds contained in Rule 8313.[55] FINRA believes that providing greater access to information regarding its disciplinary actions is in the public interest and will provide valuable guidance to members, associated persons, other regulators and the public. Accordingly, the Commission believes that it is appropriate for FINRA to provide general standards for the release of disciplinary and other information to the public, clarify the scope of Rule 8313 and eliminate provisions that do not relate to the release of information by FINRA to the public.

As discussed above, three commenters raised concerns with the proposed general standards for the release of information pursuant to Rule 8313(a). One commenter opposed the elimination of FINRA's current Rule 8313(a) which required FINRA to provide any identified disciplinary complaint or disciplinary decision to a requesting party.[56] In response to this comment, FINRA proposes to amend a portion of the proposed rule change to maintain the current requirement that FINRA release the requested information.[57] The commenter also opposed FINRA's discretion to publish exemption decisions or notices issued pursuant to the Rule 9600 Series.[58] Another commenter requested guidance for the meaning of "at FINRA's discretion" and "information with respect to" in Rule 8313(a)(1), (2) and (4) related to FINRA's discretion to release information with respect to any disciplinary complaint or decision issued by FINRA.[59] A third commenter opposed FINRA's proposal to post dismissed and withdrawn complaints on the FDA.[60]

First, the Commission agrees with FINRA's decision to maintain the explicit requirement to release disciplinary complaints and decisions in Rule 8313(a), as this will ensure that FINRA's intent to release disciplinary complaints and decisions upon request is clear. Second, the Commission believes it is appropriate for FINRA to have discretion to decide whether to publish exemption decisions because certain exemption decisions contain proprietary details and are not disciplinary in nature. Third, although FINRA does not delineate the specific circumstances in which it may release disciplinary information or press releases, the Commission supports FINRA's intention to continue to release

[45] *See* FSI Letter, p. 4; Malecki Letter, p. 2; and PIABA Letter, p. 1.

[46] *See* FSI Letter, p. 4.

[47] *See* Malecki Letter, p. 2.

[48] *Id.*

[49] *See* PIABA Letter, p. 1.

[50] *See* FINRA Letter, p. 5.

[51] *See* FINRA Letter, p. 4.

[52] *Id.*

[53] In approving the proposed rule change, the Commission has considered the impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[54] 15 U.S.C. 78*o*(b)(6).

[55] The information about members and registered persons made available through BrokerCheck is derived from the Central Registration Depository (CRD®). Information in the CRD system is obtained through the uniform registration forms (*i.e.*, Forms U4, U5, and U6, and Forms BD, BDW, and BR).

[56] *See* PIABA Letter, p. 3.

[57] *See* FINRA Letter, p. 2 and Amendment No. 1, *supra* note 7.

[58] *See* PIABA Letter, p. 2.

[59] *See* Cornell Letter, p. 2.

[60] *See* FSI Letter, p. 3.

monthly summaries of complaints and press releases as it deems appropriate. The Commission notes that the decisions will be public. Fourth, the Commission believes it is appropriate for FINRA to release complaints that have been withdrawn or dismissed as such documents are publicly available on BrokerCheck. The Commission notes that any decision to withdraw or dismiss a disciplinary complaint or decision would be released as well, therefore, persons reviewing disciplinary information should have a complete understanding of the status of a filed disciplinary complaint. The Commission believes that FINRA responded adequately to the commenters' concerns regarding proposed changes to Rule 8313(a).

As detailed above, four commenters raised concerns related to Rule 8313(b) and (c). One commenter opposed the removal of language recommending that a recipient of a complaint contact the respondent regarding allegations made in a complaint.[61] The same commenter requested guidance on when FINRA would exercise discretion to redact information.[62] Another commenter indicated that the phrase "violate fundamental notions of fairness or work an injustice" is vague and may not be universally applied.[63] A third commenter opposed FINRA's authority to use discretion in waiving publication.[64]

The Commission agrees that the inclusion of the disclosure statement language in Rule 8313(b) is not necessary because a recipient of a complaint may contact a respondent at any time. FINRA's proposal to remove the disclosure statement does not change a recipient's ability to contact a respondent for information. The Commission believes that FINRA should have discretion to redact information in disciplinary complaints and decisions and waive publication under certain circumstances in order to effectively balance investor protection benefits with the harm that may result from not redacting certain confidential information before releasing to the public. FINRA has had this authority since the 1990's and the Commission believes that FINRA will continue to exercise it appropriately.

Accordingly, for the reasons stated above, the Commission finds that FINRA's proposal is consistent with Section 15A(b)(6) of the Act.[65]

[61] *See* FSI Letter, p. 4.

[62] *Id.*

[63] *See* Malecki Letter, p. 2.

[64] *See* PIABA Letter, pp. 2–3.

[65] 15 U.S.C. 78*o*-3(b)(6).

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[66] that the proposed rule change (SR–FINRA–2013–018), as modified by Amendment No. 1, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[67]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2013–15367 Filed 6–26–13; 8:45 am]

BILLING CODE 8011–01–P

[66] 15 U.S.C. 78s(b)(2).

[67] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69823; File No. SR–MIAX–2013–29]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Make Technical Amendments To the MIAX Options Fee Schedule

June 21, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 12, 2013, Miami International Securities Exchange LLC ("MIAX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to make technical amendments to the MIAX Options Fee Schedule (the "Fee Schedule").

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing*, at MIAX's principal office, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule to make several technical changes to delete obsolete or unnecessary date references, delete obsolete fees, and to correctly rename a market data product.

Technical Changes

First, the Exchange proposes to delete the language "Effective April 17, 2013" from the heading in Section 2(b) of the Fee Schedule. The Exchange believes that including this date in the Fee Schedule in this location is unnecessary going forward.

Second, the Exchange proposes to delete the portion of the Web CRD Fees in Section 2(c) that is no longer in effect as of January 1, 2013. The Exchange also proposes to make the corresponding change to delete the language that provides that "[t]hese fees will be in effect on and after January 2, 2013." The Exchange believes these deletions of obsolete language in the Fee Schedule will reduce the potential of confusion over which fees apply.

Third, the Exchange proposes to delete footnote 9 regarding the operative date for Membership Application Fees. Since the Membership Application Fees are now effective and operative, the Exchange believes that including this language in the Fee Schedule is unnecessary going forward.

Fourth, the Exchange proposes to make a technical change in Section 6 of the Fee Schedule to correct the name of the MIAX market data product, MIAX Top of Market ("ToM"), which is incorrectly identified as Top of MIAX in the Fee Schedule.

Finally, to avoid confusion, the Exchange proposes to re-number the footnotes in the Fee Schedule to reflect the deletion of footnotes 5, 6, and 9.

2. Statutory Basis

The Exchange believes that its proposal to amend its fee schedule is consistent with Section 6(b) of the Act [3] in general, and furthers the objectives of Section 6(b)(4) of the Act [4] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members. The proposal to make several technical changes to the Fee Schedule to delete obsolete or unnecessary dates, delete obsolete fees, and to correctly rename a market data product should reduce possible confusion among members to which fees apply.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed technical changes to the Fee Schedule to delete obsolete or unnecessary dates, delete obsolete fees, and to correctly rename a market data product should reduce possible confusion among members at to which fees apply. Since the Exchange proposes no substantive changes other than the technical changes, the proposal should not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[5] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File No. SR–MIAX–2013–29 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 No. SR–MIAX–2013–29. 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 No. SR–MIAX–2013–29 and should be submitted on or before July 18, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2013–15364 Filed 6–26–13: 8:45 am]

BILLING CODE 8011–01–P

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(4).

[5] 15 U.S.C. 78s(b)(3)(A)(ii).

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69817; File No. SR–Phlx–2013–66]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 3100 To Adopt a Modification in the Process for Initiating Trading of a Security That Is the Subject of a Trading Halt or Pause on NASDAQ OMX PSX

June 21, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 14, 2013, NASDAQ OMX PHLX LLC ("Phlx" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 3100 to adopt a modification in the process for initiating trading of a security that is the subject of a trading halt or pause on NASDAQ OMX PSX ("PSX"). The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com/nasdaqomxphlx/phlx/*, 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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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

In 2012, The NASDAQ Stock Market ("NASDAQ") modified its process for commencing trading of a security that is the subject of an initial public offering (an "IPO") on NASDAQ by allowing market participants to enter orders to be held in an undisplayed state until the commencement of the Display-Only Period that occurs prior to the IPO.[3] NASDAQ recently proposed a similar change with regard to entering orders prior to the end of other trading halts or pauses on NASDAQ.[4] The Exchange is proposing to make a similar change with regard to entering orders prior to the end of trading halts or pauses on PSX. Rule 3100(a) describes the circumstances under which the Exchange has the authority to initiate a trading halt. As detailed in Rule 3100(a), the specific bases for a halt include the following:

- A halt to permit the dissemination of material news with respect to a security listed on another national securities exchange (Rule 3100(a)(1)(A));
- a halt due to an order imbalance or influx (Rule 3100(a)(1)(B));
- a halt with respect to an index warrant when deemed appropriate in the interests of a fair and orderly market and to protect investors (Rule 3100(a)(2));
- a halt in a Derivative Securities Product (as defined in Rule 3100(b)(4)(A)) for which a net asset value ("NAV") or a Disclosed Portfolio is disseminated if the Exchange becomes aware that the NAV or Disclosed Portfolio is not being disseminated to all market participants at the same time (Rule 3100(a)(3));
- a trading pause with respect to stocks that are not subject to the Limit Up-Limit Down Plan [5] and for which the primary listing market has issued an individual stock trading pause (Rule 3100(a)(4)); and
- a trading halt in a Derivative Security Product traded pursuant to unlisted trading privileges for which a "Required Value," such as an intraday indicative value or disclosed portfolio, is not being disseminated, under the conditions described in Rule 3100(b).

Under the current process, quotes and orders in a halted security may not be entered until the resumption of trading. However, the Exchange believes that the quality of its process for commencing trading in the halted security would be enhanced by allowing market participants to enter orders to be held but not displayed until the resumption of trading. Specifically, the Exchange believes that this change will provide for a greater number of orders being entered prior to commencement of trading, resulting in a higher level of order interaction at the resumption of trading.

Orders entered in this manner will be held in a suspended state until the resumption of trading, at which time they will be entered into the system. Market participants may cancel orders entered in this manner in the same way they would cancel any other order. Orders entered prior to the resumption of trading will be rejected unless they are designated for holding. Specifically, the orders will be entered into the continuous market once trading resumes.[6]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[7] in general, and with Section 6(b)(5) of the Act,[8] in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Specifically, the Exchange believes that the change to allow entry of quotes and orders for holding during a trading halt will provide for a greater number of orders being entered prior to commencement of trading, resulting in a higher level of order interaction in the re-opening process. Thus, the Exchange believes that the change will remove impediments to and perfect the mechanism of a free and open market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Specifically, the Exchange believes that this change will provide for a greater number of orders being entered prior to commencement of trading, resulting in a higher level of order interaction. The Exchange believes that this change will promote competition by enhancing the attractiveness of PSX as a trading venue through higher order fill rates and more complete price discovery. Moreover, because the change will not affect the availability or price of goods or services offered by PSX or others, it will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10]

[3] Securities Exchange Act Release No. 66652 (March 23, 2012), 77 FR 13129 (March 29, 2012) (SR–NASDAQ–2012–038).

[4] Securities Exchange Act Release No. 69563 (May 13, 2013), 78 FR 29187 (May 17, 2013) (SR–NASDAQ–2013–073).

[5] Plan to Address Extraordinary Market Volatility Submitted to the Commission Pursuant to Rule 608 of Regulation NMS under the Act, Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012).

[6] Orders entered and held during the halt period will be entered into the continuous market in the order in which they were received. However, such orders will be entered contemporaneously with any orders received through order entry ports after the halt is terminated. Thus, the relative priority of orders received during the halt and orders received through order entry ports after the halt is terminated will be a function of the duration of system processing associated with each particular order. As a result, orders received during the halt will not automatically have priority over orders received at the conclusion of the halt.

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act.

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–Phlx–2013–66 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–Phlx–2013–66. 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 publicly available. All submissions should refer to File Number SR–Phlx–2013–66 and should be submitted on or before July 18, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority. [11]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2013–15345 Filed 6–26–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69827; File No. SR–NYSEMKT–2013–54]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Making a Non-Substantive, Technical Amendment to Exchange Rule 900.3NY(o) To Correct a Cross Reference To Exchange Rule 964NY

June 21, 2013.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the "Act") [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on June 17, 2013, NYSE MKT LLC (the "Exchange" or "NYSE MKT") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to make a non-substantive, technical amendment to Exchange Rule 900.3NY(o) to correct a cross reference to Exchange Rule 964NY. 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, on the Commission's Web site at *http://www.sec.gov*, 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to make a non-substantive, technical correction to Exchange Rule 900.3NY(o) in order to update a cross reference to Exchange Rule 964NY. Current Rule 900.3NY(o) incorrectly cross references Rule 964NY(c)(2)(D) with respect to the routing instructions for NOW Orders. The Exchange proposes to correct the citation to cross reference Rule 964NY(c)(2)(E).

As described in Rule 900.3NY(o), a "NOW Order" is a Limit Order that is to be executed in whole or in part on the Exchange, and the portion not so executed is routed to one or more NOW Recipients for immediate execution as soon as the order is received by the NOW Recipient.[4] Currently, Rule 900.3NY(o) incorrectly provides that a NOW Order is routed pursuant to Rule 964NY(c)(2)(D), which relates to the matching of an inbound order against orders in the Working Order File.

The routing provisions actually governing the routing of NOW Orders are found in Rule 964NY(c)(2)(E), and, as applied to NOW Orders, provide that if the NOW Order has not been executed in its entirety on the Exchange, the order will be routed for execution to one or more NOW Recipients. Specifically, Rule 964NY(c)(2)(E)(iii) states that "if the order locks or crosses the NBBO, it will be routed via routing broker to the away market(s) displaying the National Best Bid or Offer Price." Following the routing of the NOW Order, and in accordance with the terms of such order, any portion not immediately executed by the NOW Recipient is cancelled. Accordingly, the Exchange proposes to correct Rule 900.3NY(o) to cross-reference Rule 964NY(c)(2)(E).

[11] 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] A NOW Recipient is defined as "any Market Center (1) with which the Exchange maintains an electronic linkage, and (2) that provides instantaneous responses to NOW Orders routed from the System." NYSE Amex Options Rule 900.2NY(44).

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5),[6] in particular, in that it is designed to 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. The Exchange believes it is appropriate to make technical corrections to its rules so that Exchange members and investors have a clear and accurate understanding of the meaning of the Exchange's rules. The correction of the cross reference in Rule 900.3NY(o) will serve to eliminate a potential source of confusion for Exchange Participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change is non-substantive and therefore does not implicate the competition analysis.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

A proposed rule change filed under Rule 19b–4(f)(6)[9] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[10] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that it believes that this proposal is non-controversial and will not significantly affect the protection of investors because the Exchange is not proposing any substantive changes and is merely correcting an inaccuracy in the Exchange's rules. According to the Exchange, the correction of the inaccurate cross reference in the Exchange's rules will eliminate member confusion and provide clarity on how the rules apply. Based on the Exchange's statements, the Commission believes that waiving the operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby grants the Exchange's request and waives the 30-day operative delay.[11]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File No. SR–NYSEMKT–2013–54 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 No. SR–NYSEMKT–2013–54. 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 No. SR–NYSEMKT–2013–54 and should be submitted on or before July 18, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2013–15369 Filed 6–26–13; 8:45 am]

BILLING CODE 8011–01–P

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] For purposes only of waiving the operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Biozoom, Inc.; Order of Suspension of Trading

June 25, 2013.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Biozoom, Inc. ("Biozoom"), a Nevada corporation headquartered in Germany, trading under the symbol BIZM on the Over-

the-Counter Bulletin Board ("OTCBB"). The Commission is concerned that certain Biozoom affiliates and shareholders may have unjustifiably relied upon Rule 144 of the Securities Act of 1933 ("Securities Act") and they, Biozoom, and others may be engaged in an unlawful distribution of securities through the OTCBB.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is *ordered*, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the above-listed company is suspended from the period 9:30 a.m. EDT, June 25, 2013, through 11:59 p.m. EDT, on July 9, 2013.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–15507 Filed 6–25–13; 4:15 pm]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13605 and #13606]

Iowa Disaster Number IA–00052

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Iowa (FEMA–4119–DR), dated 05/31/2013.

Incident: Severe Storms, Straight-line Winds, and Flooding.

Incident Period: 04/17/2013 through 04/30/2013.

Effective Date: 06/20/2013.

Physical Loan Application Deadline Date: 07/30/2013.

Economic Injury (EIDL) Loan Application Deadline Date: 03/03/2014.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Iowa, dated 05/31/2013, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Jefferson.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Roger B. Garland,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2013–15399 Filed 6–26–13; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13625 and #13626]

Michigan Disaster #MI–00027

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Michigan (FEMA–4121–DR), dated 06/18/2013.

Incident: Flooding.

Incident Period: 04/16/2013 through 05/14/2013.

Effective Date: 06/18/2013.

Physical Loan Application Deadline Date: 08/19/2013.

Economic Injury (EIDL) Loan Application Deadline Date: 03/18/2014.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 06/18/2013, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Allegan, Baraga, Barry, Gogebic, Houghton, Ionia, Kent, Keweenaw, Marquette, Midland, Muskegon, Newaygo, Ontonagon, Osceola, Ottawa, Saginaw.

The Interest Rates are:

	percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere	2.875
Non-Profit Organizations Without Credit Available Elsewhere	2.875
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.875

The number assigned to this disaster for physical damage is 136256 and for economic injury is 136266.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2013–15413 Filed 6–26–13; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13614 and #13615]

Illinois Disaster Number IL–00042

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1—Correction.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Illinois (FEMA–4116–DR), dated 06/06/2013.

Incident: Severe Storms, Straight-line Winds and Flooding.

Incident Period: 04/16/2013 through 05/05/2013.

Effective Date: 06/13/2013.

Physical Loan Application Deadline Date: 08/05/2013.

Economic Injury (EIDL) Loan Application Deadline Date: 03/06/2014.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Illinois, dated 06/06/2013, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Carroll, Cass, Calhoun, Greene, Hancock, Lawrence, McDonough, Monroe, Morgan, Peoria, Schuyler, Scott, Shelby, Tazewell, Will.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2013–15416 Filed 6–26–13; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13614 and #13615]

Illinois Disaster Number IL–00042

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Illinois (FEMA–4116–DR), dated 06/06/2013.

Incident: Severe Storms, Straight-line Winds and Flooding.

Incident Period: 04/16/2013 through 05/05/2013.

Effective Date: 06/20/2013.

Physical Loan Application Deadline Date: 08/05/2013.

Economic Injury (EIDL) Loan Application Deadline Date: 03/06/2014.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Illinois, dated 06/06/2013, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Brown.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Roger B. Garland,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2013–15403 Filed 6–26–13; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 8361]

Lifting of Chemical and Biological Weapons (CBW) Proliferation Sanctions Against Chinese Entities

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: A determination has been made, pursuant to Section 81(e) of the Arms Export Control Act and Section 11C(e) of the Export Administration Act of 1979, as amended, to lift nonproliferation measures on Chinese entities.

DATES: *Effective Date:* Upon publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Pamela K. Durham, Office of Missile, Biological, and Chemical Nonproliferation, Bureau of International Security and Nonproliferation, Department of State, Telephone (202) 647–4930.

SUPPLEMENTARY INFORMATION: Pursuant to Section 81(e) of the Arms Export Control Act (22 U.S.C. 2798(d)) and Section 11C(e) of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2410c(d)), the Under Secretary of State for Arms Control and International Security determined and certified to Congress that lifting sanctions on the following Chinese entities, their sub-units and successors is important to the national security interests of the United States:

1. China Machinery and Equipment Import Export Corporation
2. China National Machinery and Equipment Import Export Corporation
3. CMEC Machinery and Electric Equipment Import and Export Company Ltd.
4. CMEC Machinery and Electrical Import Export Company, Ltd.
5. China Machinery and Electric Equipment Import and Export Company

These restrictions were imposed on July 9, 2002 (*see* Volume 67 FR Public Notice 4071).

Dated: June 21, 2013.

Thomas M. Countryman,

Assistant Secretary of State for International Security and Nonproliferation.

[FR Doc. 2013–15434 Filed 6–26–13; 8:45 am]

BILLING CODE 4710–03–P

SUSQUEHANNA RIVER BASIN COMMISSION

Public Review and Comment; Public Hearing—2013 Update of Comprehensive Plan

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: On June 20, 2013, the Susquehanna River Basin Commission released a proposed 2013 Update of the Comprehensive Plan for the Water Resources of the Susquehanna River Basin Commission (2013 Update of the Comprehensive Plan) for public review and comment. In accordance with Section 14.1 of the Susquehanna River Basin Compact, the Commission shall develop and adopt, and may from time to time review and revise a comprehensive plan for management of the basin's water resources. As part of the public comment process, the Commission will hold a public hearing to hear testimony on the 2013 Update of the Comprehensive Plan. Written comments may be submitted at any time during the public comment period.

DATES: The public hearing will convene on August 15, 2013, at 3:00 p.m. The public hearing will end at 5:00 p.m. or at the conclusion of public testimony, whichever is sooner. The deadline for the submission of written comments is August 26, 2013, at which time the public comment period will close.

ADDRESSES: The public hearing will be conducted at the Pennsylvania State Capitol, Room 8E–B, East Wing, Commonwealth Avenue, Harrisburg, Pa.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: (717) 238–0423, ext. 306; fax: (717) 238–2436.

The 2013 Update of the Comprehensive Plan for the Water Resources of the Susquehanna River Basin and other related information are available at *http://www.srbc.net/planning/compplanfiles.asp.*

Opportunity To Appear and Comment

At the public hearing for the 2013 Update to the Comprehensive Plan, interested parties may appear at the hearing to offer comments to the Commission. The presiding officer reserves the right to limit oral statements in the interest of time and to otherwise control the course of the hearing. Ground rules will be posted on the Commission's Web site, *www.srbc.net*, prior to the hearing for review. The presiding officer reserves the right to modify or supplement such rules at the hearing. Written comments

may be mailed to Mr. Richard Cairo, General Counsel, Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, Pa. 17102–2391, or submitted electronically through *http://www.srbc.net/pubinfo/publicparticipation.htm*. Comments mailed or electronically submitted must be received by the Commission on or before August 26, 2013, to be considered.

SUPPLEMENTARY INFORMATION: On June 20, 2013, the Susquehanna River Basin Commission released a proposed 2013 Update of the Comprehensive Plan for public review and comment. The public should take note that the August 15, 2013, public hearing will be the only opportunity to offer oral comment to the Commission on the 2013 Update of the Comprehensive Plan. Written comments may be submitted at any time during the public comment period, which closes on August 26, 2013. The 2013 Update of the Comprehensive Plan is intended to be scheduled for Commission action at a future business meeting, tentatively scheduled for December 12, 2013, which will be noticed separately.

Authority: Pub. L. 91–575, 84 Stat. 1509 et seq., 18 CFR parts 806, 807, and 808.

Dated: June 21, 2013.

Paul O. Swartz,

Executive Director.

[FR Doc. 2013–15419 Filed 6–26–13: 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket DOT–OST–2013–0120]

Grant Applications; Small Community Air Service Development Program under 49 U.S.C. 41743 *et seq.*; Order Soliciting Small Community Grant Proposals

Issued by the Department of Transportation on the 24th day of June, 2013.

By this order, the Department invites proposals from communities and/or consortia of communities interested in obtaining a federal grant under the Small Community Air Service Development Program ("Small Community Program" or "SCASDP") to address air service and airfare issues in their communities. *Applications of no more than 20 pages each (one-sided only, excluding the completed SF424, Summary Information schedule, and any letters from the community or an air carrier showing support for the application),* including all required information, must be submitted to *www.grants.gov* no later than 5:00 p.m. EDT on Friday, July 26, 2013.

This order is organized into the following sections:

I. Background

The Small Community Program was established by the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (Pub. L. 106–181) and reauthorized by the Vision 100-Century of Aviation Reauthorization Act (Pub. L. 108–176). The program is designed to provide financial assistance to small communities in order to help them enhance their air service. The Department provides this assistance in the form of monetary grants that are disbursed on a reimbursable basis. Authorization for this program is codified at 49 U.S.C. 41743.

The Small Community Program is authorized to receive appropriations under 49 U.S.C. 41743(e)(2), as amended. Appropriations are provided for this program for award selection in FY 2013 pursuant to the FAA Modernization and Reform Act of 2012 (Pub. L. 112–95). The Department has up to $11.5 million available for FY 2013 grant awards to carry out this program. There is no limit on the amount of individual awards, and the amounts awarded will vary depending upon the features and merits of the selected proposals. In past years, the Department's individual grant sizes have ranged from $20,000 to nearly $1.6 million.

A. Eligible Applicants

Eligible applicants are small communities that meet the following statutory criteria under 49 U.S.C. 41743:

1. As of calendar year 1997, the airport serving the community was not larger than a small hub airport, and it has insufficient air carrier service or unreasonably high air fares; and

2. The airport serving the community presents characteristics, such as geographic diversity or unique circumstances that demonstrate the need for, and feasibility of, grant assistance from the Small Community Program.

No more than four communities or consortia of communities, or a combination thereof, from the same state may be selected to participate in the program in any fiscal year. No more than 40 communities or consortia of communities, or a combination thereof, may be selected to participate in the program in each year for which the funds are appropriated.

Communities Without Existing Air Service: Communities that do not currently have commercial air service are eligible for SCASDP funds, but air service providers must have met or be able to meet in a reasonable period, all Department requirements for air service certification, including safety and economic authorities.

Essential Air Service Communities: Small communities that meet the basic SCASDP criteria and currently receive subsidized air service under the Essential Air Service ("EAS") program are eligible to apply for SCASDP funds. However, *grant awards to EAS-subsidized communities are limited to marketing or promotion projects that support existing or newly subsidized EAS.* Grant funds will *not* be authorized for EAS-subsidized communities to support any *new* competing air service. Furthermore, no funds will be authorized to support additional flights by EAS carriers or changes to those carriers' existing schedules. These restrictions are necessary to avoid conflicts with the mandate of the EAS program.

Consortium Applications: Both individual communities and consortia of communities are eligible for SCASDP funds. An application from a consortium of communities must be one that seeks to facilitate the efforts of the communities working together toward one joint grant project, with one joint objective, including the establishment of one entity to ensure that the joint objective is accomplished.

Multiple Applications: Communities may file only one application for a grant, either individually or as part of a consortium.

B. Eligible Projects

The Department is authorized to award grants under 49 U.S.C. 41743 to communities that seek to provide assistance to:

- An air carrier to subsidize service to and from an underserved airport for a period not to exceed 3 years;
- An underserved airport to obtain service to and from the underserved airport; and/or
- An underserved airport to implement such other measures as the Secretary, in consultation with such

airport, considers appropriate to improve air service both in terms of the cost of such service to consumers and the availability of such service, including improving air service through marketing and promotion of air service and enhanced utilization of airport facilities.

Applicants should also keep in mind the following statutory restrictions on eligible projects:

- An applicant may not receive an additional grant to support the same project from a previous grant (*see* Same Project Limitation, below); and
- An applicant may not receive an additional grant, prior to the completion of its previous grant (*see* Concurrent Grant Limitation, below).

Same Project Limitation: A community may not receive an additional grant to support the same project for which it received a previous grant (Same Project Limitation). In assessing whether a previous grantee's current application represents a new project, the Department will compare the goals and objectives of the previous grant, including the key components of the means by which those goals and objectives were to be achieved, to the current application. For example, if a community received an earlier grant to support a revenue guarantee for service to a particular destination or direction, a new application by that community for another revenue guarantee for service to the same destination or in the same direction is ineligible, even if the revenue guarantee were structured differently or the type of carrier were different. However, a new application by such a previous grantee for service to a new destination or direction using a revenue guarantee, or for general marketing of the airport and the various services it offers, is eligible. We recognize that not all revenue guarantees, marketing agreements, studies, etc. are of the same nature, and that if a subsequent application incorporates different goals or significantly different components, it may be sufficiently different to constitute a new project under 49 U.S.C. 41743(c).

Concurrent Grant Limitation: A community or consortium may have only one SCASDP grant at any time. If a community or consortium applies for a subsequent SCASDP grant when its current grant has not yet expired, that community/consortium must notify the Department of its intent to terminate the current SCASDP grant prior to entering into the new grant. In addition, for consortium member applicants, permission must be granted from both the grant sponsor and the Department to withdraw from the current SCASDP grant before that consortium member will be deemed eligible to receive a subsequent SCASDP grant.

Airport Capital Improvements Ineligible: Airport capital improvement projects, including, but not limited to, runway expansions and enhancements, the construction of additional aircraft gates, and other airport terminal expansions and reconfigurations are ineligible for funding under the Small Community Program. Airports seeking funding for airport capital improvement projects may want to consult with their local FAA Regional Office to discuss potential eligibility for grants under the Airport Improvement Program.

II. Selection Criteria and Guidance on Application of Selection Criteria

SCASDP grants will be awarded based on the selection criteria as outlined below. There are two categories of selection criteria: Priority Selection Criteria and Secondary Selection Criteria. Applications that meet one or more of the Priority Selection Criteria will be viewed more favorably than those that do not meet any Priority Selection Criteria.

A. Priority Selection Criteria

The law directs the Department to give priority consideration to those communities or consortia where the following criteria are met:

1. *Air fares are higher than the national average air fares for all communities*—DOT will compare the local community's air fares to the national average air fares for all similar markets. Communities with market air fares significantly higher than the national average air fares in similar markets will receive priority consideration. DOT calculates these fares using data from the Bureau of Transportation Statistics (BTS) Airline Origin and Destination Survey data. DOT evaluates all fares in all relevant markets that serve a SCASDP community and compares the SCASDP community fares to all fares in similar markets across the country. Each SCASDP applicant's air fares are computed as a percentage above or below the national averages. SCASDP community relevant markets are markets that average more than one passenger per day each way. The report compares a community's air fares to the average for all other similar markets in the country that have similar density (passenger volume) and similar distance characteristics (market groupings). All calculations are based on 12-month ended periods to control for seasonal variation of fares.

2. *The community or consortium will provide a portion of the cost of the activity from local sources other than airport revenue sources*—DOT will consider whether a community or consortium proposes local funding for the proposed project. Applications providing proportionately higher levels of cash contributions from sources other than airport revenues will be viewed more favorably. Applications that provide multiple levels of contributions (state, local, airport, cash and in-kind contributions) will also be viewed more favorably. *See* Additional Guidance—Cost Sharing and Local Contributions, in Subsection C below, for more information on the application of this selection criterion.

3. *The community or consortium has established or will establish a public-private partnership to facilitate air carrier service to the public*—DOT will consider a community or consortium's commitment to facilitate air carrier service in the form of a public-private partnership. Applications that describe in detail how the partnership will *actively* participate in the implementation of the proposed project will be viewed more favorably.

4. *The assistance will provide material benefits to a broad segment of the traveling public, including businesses, educational institutions, and other enterprises, whose access to the national air transportation system is limited*—DOT will consider whether the proposed project would provide, to a broad segment of the community's traveling public, important benefits relevant to the community. Examples include service that would offer new or additional access to a connecting hub airport, service that would provide convenient travel times for both business and leisure travelers that would help obviate the need to drive long distances, and service that would offer lower fares.

5. *The assistance will be used in a timely manner*—DOT will consider whether a proposed project provides a well-defined plan and reasonable timetable for use of the grant funds. In DOT's experience, a reasonable timetable for use of grant funds includes a year to complete studies, two years for marketing and promotion of the airport, community, carrier, or destination, and three years for projects that target a revenue guarantee, subsidy, or other financial incentives. Applicants should describe how their projects can be accomplished within a reasonable time period.

6. *Multiple communities cooperate to submit a regional or multistate application to consolidate air service*

into one regional airport—DOT will consider whether a proposed project involves a consortium effort to consolidate air service into one regional airport. This statutory priority criterion was added pursuant to Section 429 of the FAA Modernization and Reform Act of 2012 (Pub. L. 112–95).

B. Secondary Selection Criteria

1. *Innovation*—DOT will consider whether an application proposes new and creative solutions to the transportation issues facing the community, including:

- The extent to which the applicant's proposed solution(s) to solving the problem(s) is new or innovative, including whether the proposed project utilizes or encourages intermodal or regional solutions to connect passengers to the community's air service (i.e., cost-effective inter/intra city passenger bus service, marketing of intermodal surface transportation options also available to air travelers, or projects that have a positive impact on travel and tourism); and
- Whether the proposed project, if successfully implemented, could serve as a working model for other communities.

2. *Participation*—DOT will consider whether an application has broad community participation, including:

- Whether the proposed project has broad community support; and
- the community's demonstrated commitment to and participation in the proposed project.

3. *Location*—DOT will consider the location and characteristics of a community:

- The geographic location of each applicant, including the community's proximity to larger centers of air service and low-fare service alternatives;
- the population and business activity, as well as the relative size of each community; and
- whether the community's proximity to an existing or prior grant recipient could adversely affect either its proposal or the project undertaken by the other recipient.

4. *Other Factors*—DOT will also consider:

- Whether the proposed project clearly addresses the applicant's stated problems;
- the community's existing level of air service and whether that service has been increasing or decreasing;
- whether the applicant has a plan to provide any necessary continued financial support for the proposed project after the requested grant award expires;
- the grant amount requested compared with total funds available for all communities;
- the proposed federal grant amount requested compared with the local share offered;
- any letters of intent from airline planning departments or intermodal surface transportation providers on behalf of applications that are specifically intended to enlist new or expanded air service or surface transportation service in support of the air service in the community;
- whether the applicant has plans to continue with the proposed project if it is not self-sustaining after the grant award expires; and
- equitable and geographic distribution of available funds.

C. Additional Guidance

Market Analysis: Applicants requesting funds for a revenue guarantee/subsidy/financial incentive are encouraged to conduct and reference in their applications an in-depth analysis of their target markets. Target markets can be destination specific (e.g., service to LAX), a geographic region (e.g., northwest mountain region) or directional (e.g., hub in the southeastern United States).

Complementary Marketing Commitment: Applicants requesting funds for a revenue guarantee/subsidy/financial incentive are encouraged to designate in their applications a portion of the project funds (federal, local or in-kind) for the development and implementation of a marketing plan in support of the service sought.

Subsidies for a carrier to compete against an incumbent: The Department is reluctant to subsidize one carrier but not others in a competitive market. For this reason, communities that propose to use the grant funds for service in a city-pair market that is already served by another air carrier must explain in detail why the existing service is insufficient or unsatisfactory, or provide other compelling information to support such proposals.

Cost Sharing and Local Contributions: Applications must clearly identify the level of federal funding sought for the proposed project. Applications must also identify the community's cash contributions to the proposed project, in-kind contributions from the airport, and in-kind contributions from the community. Non-federal funds will be applied proportionately to the entire scope of the project. Communities cannot use non-federal funds to selectively fund certain components of a project (see Section VI—Grant Administration—Payments for more information). Cash contributions from airport revenues must be identified separately from cash contributions from other community sources, and cash contributions from the state and/or local government should be separately identified and described.

Types of contributions. Contributions should represent a *new* financial commitment or *new* financial resources devoted to attracting new or improved service, or addressing specific high-fare or other service issues, such as improving patronage of existing service at the airport. For communities that propose to contribute to the grant project, that contribution can be in the following forms:

Cash from non-airport revenues. A cash contribution can include funds from the state, the county or local government, and/or from local businesses, or other private organizations in the community. Contributions that are comprised of intangible non-cash items, such as the value of donated advertising, are considered in-kind contributions (see further discussion below).

Cash from airport revenues. This includes contributions from funds generated by airport operations. Airport revenues may not be used for revenue guarantees to airlines, per 49 U.S.C. 47107 and 47133. Applications that include local contributions based on airport revenues do not receive priority consideration for selection.

In-kind contributions from the airport. This can include such items as waivers of landing fees, terminal rents, fuel fees, and/or vehicle parking fees.

In-kind contributions from the community. This can include such items as donated advertising from media outlets, catering services for inaugural events, or in-kind trading, such as advertising in exchange for free air travel. Travel banks and travel commitments/pledges are considered to be in-kind contributions.[1]

Cash vs. in-kind contributions. Communities that include local contributions made in cash will be viewed more favorably.

[1] A travel bank involves the actual deposit of funds from participating parties (e.g., businesses, individuals) into a designated bank account for purchasing air travel on the selected airline, with defined procedures for the subsequent use or withdrawal of those funds under an agreement with the airline. Often, however, what communities refer to as a travel bank actually involves travel pledges from businesses in the community without any collection of funds or formal procedures for use of the funds. As with other types of in-kind contributions, the Department views travel banks and pledges included in grant applications as an indicator of local community support.

III. Evaluation and Selection Process

The Department will first review each application to determine whether it has satisfied the following eligibility requirements:

1. The applicant is an eligible applicant;

2. The application is for an eligible project (including compliance with the Same Project Limitation); and

3. The application is complete (including submission of a completed SF424 and all of the information listed in Contents of Application, in Section IV below).

To the extent that the Department determines that an application does not satisfy these eligibility requirements, the Department will deem that application ineligible and not consider it further.

The Department will then review all eligible applications based on the selection criteria outlined above in Section II. Applications that meet one or more of the Priority Selection Criteria will be viewed more favorably than those that do not meet any Priority Selection Criteria.

Grant awards will be made as promptly as possible so that selected communities can complete the grant agreement process and implement their plans. Given the competitive nature of the grant process, the Department will not meet with applicants regarding their applications. All non-confidential portions of each application, all correspondence and ex-parte communications, and all orders will be posted in the above-captioned docket on *www.regulations.gov*.

The Department will announce its grant selections in a Selection Order that will be posted in the above-captioned docket, served on all applicants and all parties served with this Solicitation Order, and posted on the Department's SCASDP Web site at *http://www.dot.gov/policy/aviation-policy/small-community-rural-air-service/SCASDP*.

IV. How To Apply

Required Steps

- Determine eligibility;
- Register with *www.grants.gov* (*see* Registration with *www.grants.gov*, below);
- Submit an Application for Federal Domestic Assistance (SF424);
- Submit a completed "Summary Information" schedule. This is your application cover sheet (*see* Appendix B);
- Submit a detailed application of *up to 20 pages (one-sided only, excluding the completed SF424, Summary Information schedule, and any letters from the community or an air carrier showing support for the application)* that meets all required criteria (*see* Appendix C);
- Attach any letters from the community or an air carrier showing support for the application to the proposal, which should be addressed to Brooke Chapman, Associate Director, Small Community Air Service Development Program; and
- Provide separate submission of confidential material, if requested. (*see* Appendix D)

An application will not be complete and will be deemed ineligible for a grant award until and unless all required materials, including SF424, have been submitted through *www.grants.gov* by 5 p.m. EDT on July 26, 2013.

Registration with www.grants.gov: Communities must be registered with *www.grants.gov* in order to submit an application for funds available under this program. For consortium applications, only the Legal Sponsor must be registered with *www.grants.gov* in order to submit its application for funds available under this program. *See* Appendix A for additional information on applying through *www.grants.gov*.

Contents of Application: There is no set format that must be used for applications. Each application should, to the maximum extent possible, address the selection criteria set forth in Section II, above, including a clear description of the air service needs/deficiencies and present plans/strategies that directly address those needs/deficiencies. At a minimum, however, each application must include the following information:

- *A description of the community's air service needs or deficiencies,* including information about: (1) Major origin/destination markets that are not now served or are not served adequately; (2) fare levels that the community deems relevant to consideration of its application, including market analyses or studies demonstrating an understanding of local air service needs; and (3) any air service development efforts over the past three years and the results of those efforts (including marketing and promotional efforts).
- *A strategic plan for meeting those needs under the Small Community Program,* including the community's specific project goal(s) and detailed plan for attaining such goal(s). Applicants are advised to obtain firm assurances from air carriers proposing to offer new air services if a grant is awarded. Plans should:

for applications involving new or improved service, explain how the service will become self-sufficient.

fully and clearly outline the goals and objectives of the project. When an application is selected, these goals and objectives will be incorporated into the grant agreement, along with the strategic plan, and define the grant agreement's project scope. Once a grant agreement is signed, the agreement cannot be amended in a way that would alter the project scope.

- *A detailed description of the funding necessary for implementation of the proposed project* (including federal and non-federal contributions).
- *An explanation of how the proposed project differs from any previous projects for which the community received SCASDP funds* (*see* Same Project Limitation, above).
- *Designation of a legal sponsor responsible for administering the proposed project.* The legal sponsor of the proposed project *must* be a government entity, such as a state, county, or municipality. The legal sponsor must be legally, financially, and otherwise able to administer the grant, including having the authority to assume and carry out the certifications, representations, warranties, assurances, covenants and other obligations required under the grant agreement with the Department and to ensure compliance by the grant recipient with the grant agreement and grant assurances. If the applicant is a public-private partnership, a public government member of the organization must be identified as the community's sponsor to receive project cost reinbursements. A community may designate only one government entity as the legal sponsor, even if it is applying as a consortium that consists of two or more local government entities. Private organizations may not be designated as the legal sponsor of a grant under the Small Community Program. The community has the responsibility to ensure that the legal sponsor and grant recipient of any funding has the legal authority under state and local laws to carry out all aspects of the grant, and the Department may require an opinion of the legal sponsor's attorney as to its legal authority to act as a sponsor and to carry out its responsibilities under the grant agreement.

V. Air Service Development Zone Designation

The statute authorizing the Small Community Program also provides that the Department will designate one of the grant recipients in the program as an Air Service Development Zone (ASDZ). A

current grant recipient—with its grant award period extending into FY2013—remains active as the ASDZ designee. As a result, the Department is not currently soliciting applications for selection as an ASDZ designee.

VI. Grant Administration

Grant Agreements: Communities awarded grants are required to execute a grant agreement with the Department *before* they begin to expend funds under the grant award. Applicants should not assume they have received a grant, nor should they obligate or expend local funds prior to receiving and fully executing a grant agreement with the Department. Expenditures made prior to the execution of a grant agreement, including costs associated with preparation of the grant application, will *not* be reimbursed. Moreover, there are numerous assurances that grant recipients must sign and honor when federal funds are awarded. All communities receiving a grant will be required to accept and meet the obligations created by these assurances when they execute their grant agreements. Copies of assurances are available online at *http://www.dot.gov/policy/aviation-policy/small-community-rural-air-service/SCASDP,* (click on "SCASDP Grant Assurances").

Payments: The Small Community Program is a reimbursable program; therefore, communities are required to make expenditures for project implementation under the program prior to seeking reimbursement from the Department. Project implementation costs are reimbursable from grant funds only for services or property delivered during the grant term. Reimbursement rates are calculated as a percentage of the total federal funds requested divided by the federal funds plus the local cash contribution (which is not refundable). The percentage is determined by: (SCASDP Grant Amount) ÷ (SCASDP Grant Amount + Local Cash Contribution + State Cash Contribution, if applicable). Payments/expenditures in forms other than cash (e.g., in-kind) are not reimbursable. For example, if a community requests $500,000 in federal funding and provides $100,000 in local contributions, the reimbursement rate would be 83.33 percent: ((500,000)/(500,000 + 100,000)) = 83.33.

Grantee Reports: Each grantee must submit quarterly reports on the progress made during the previous quarter in implementing its grant project. In addition, each community will be required to submit a final report on its project to the Department, and 10 percent of the grant funds will not be reimbursed to the community until such a final report is received. Additional information on award administration for selected communities will be provided in the grant agreement.

VII. Questions and Clarifications

For further information concerning this Order, please contact Brooke Chapman at *Brooke.Chapman@dot.gov* or (202) 366–0577. A TDD is available for individuals who are deaf or hard of hearing at (202) 366–3993. The Department may post answers to questions and other important clarifications in the above-captioned docket on *www.regulations.gov* and on the program Web site at *http://www.dot.gov/policy/aviation-policy/small-community-rural-air-service/SCASDP.*

This order is issued under authority delegated in 49 CFR 1.25a(b).

Accordingly,

1. Applications for funding under the Small Community Air Service Development Program should be submitted via *www.grants.gov* as an attachment to the SF424 by July 26, 2013; and

2. This Order will be published in the **Federal Register**, posted on *www.grants.gov* and *www.regulations.gov,* and served on the Conference of Mayors, the National League of Cities, the National Governors Association, the National Association of State Aviation Officials, County Executives of America, the American Association of Airport Executives, and the Airports Council International-North America.

Issued June 24, 2013.

Susan L. Kurland,

Assistant Secretary for Aviation and International Affairs.

An electronic version of this document is available online at www.regulations.gov.

Additional Information on Applying through WWW.GRANTS.GOV

Applications must be submitted electronically through *www.grants.gov/Apply.* To apply for funding through *www.grants.gov,* applicants must be properly registered. The Grants.gov/Apply feature includes a simple, unified application process that makes it possible for applicants to apply for grants online. There are five "Get Registered" steps for an organization to complete at Grants.gov. Complete instructions on how to register and apply can be found at *http://www.grants.gov/applicants/organization_registration.jsp.* If applicants experience difficulties at any point during registration or application process, please call the *www.grants.gov* Customer Support Hotline at 1–800–518–4726, Monday–Friday from 7 a.m. to 9 p.m. EDT. Registering with *www.grants.gov* is a one-time process; however, processing delays may occur and it can take up to several weeks for first-time registrants to receive confirmation and a user password. It is highly recommended that applicants start the registration process as early as possible to prevent delays that may preclude submitting an application by the deadlines specified. Applications will not be accepted after July 26, 2013; delayed registration is not an acceptable reason for extensions.

In order to apply for SCASDP funding through *www.grants.gov/Apply,* all applicants are required to complete the following:

1. *DUNS Requirement.* The Office of Management and Budget requires that all businesses and nonprofit applicants for federal funds include a Dun and Bradstreet Data Universal Numbering System (DUNS) number in their applications for a new award or renewal of an existing award. A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of entities receiving federal funds. The identifier is used for tracking purposes and to validate address and point of contact information for federal assistance applicants, recipients, and sub-recipients. The DUNS number will be used throughout the grant life cycle. The DUNS number must be included in the data entry field labeled "Organizational DUNS" on the SF–424 form. Instructions for obtaining DUNS number can be found at the following Web site: *http://www.grants.gov/applicants/org_step1.jsp.*

2. *System for Award Management.* In addition to having a DUNS number, applicants applying electronically through Grants.gov must register with the federal System for Award Management (SAM). Step-by-step instructions for registering with SAM can be found here: *http://www.grants.gov/applicants/org_step2.jsp.* All applicants must register with SAM in order to apply online. Failure to register with the SAM will result in your application being rejected by Grants.gov during the submissions process.

3. *Username and Password.* Acquire an Authorized Organization Representative (AOR) and a *www.grants.gov* username and password. Complete your AOR profile on *www.grants.gov* and create your username and password. You will need to use your organization's DUNS Number to complete this step. For more

information about creating a profile on Grants.gov visit: *http://www.grants.gov/applicants/org_step3.jsp.*

4. After creating a profile on Grants.gov, the E-Biz Point of Contact (E-Biz POC)—a representative from your organization who is the contact listed for SAM—will receive an email to grant the AOR permission to submit applications on behalf of their organization. The E-Biz POC will then log in to Grants.gov and approve an applicant as the AOR, thereby giving him or her permission to submit applications. To learn more about AOR Authorization visit: *http://www.grants.gov/applicants/org_step5.jsp.* To track an AOR status visit: *http://www.grants.gov/applicants/org_step6.jsp.*

a. Applicants are, therefore, encouraged to register early. The registration process can take up to four weeks to be completed. Thus, registration should be done in sufficient time to ensure it does not impact your ability to meet required submission deadlines. You will be able to submit your application online any time after you have approved as an AOR.

5. *Electronic Signature.* Applications submitted through Grants.gov constitute a submission as electronically signed applications. The registration and account creation with Grants.gov with E-Biz POC approval establishes an Authorized Organization Representative (AOR). When you submit the application through Grants.gov, the name of your AOR on file will be inserted into the signature line of the application. Applicants must register the individual who is able to make legally binding commitments for the applicant organization as the Authorized Organization Representative (AOR);

6. Search for the Funding Opportunity on *www.grants.gov.* Please use the following identifying information when searching for the SCASDP funding opportunity on *www.grants.gov.* The Catalog of Federal Domestic Assistance (CFDA) number for this solicitation is 20.930, titled Payments for Small Community Air Service Development.

7. Submit an application addressing all of the requirements outlined in this funding availability announcement. Within 24–48 hours after submitting your electronic application, you should receive an email validation message from *www.grants.gov.* The validation message will tell you whether the application has been received and validated or rejected, with an explanation. *You are urged to submit your application at least 72 hours prior to the due date of the application to allow time to receive the validation message and to correct any problems that may have caused a rejection notification.*

8. *Timely Receipt Requirements and Proof of Timely Submission.* Proof of timely submission is automatically recorded by Grants.gov. An electronic timestamp is generated within the system when the application is successfully received by Grants.gov. The applicant will receive an acknowledgement of receipt and a tracking number from Grants.gov with successful transmission of the application. Applicants should print this receipt and save it, as a proof of timely submission.

9. Grants.gov allows applicants to download the application package, instructions and forms that are incorporated in the instructions, and work offline. In addition to forms that are part of the application instructions, there will be a series of electronic forms that are provided utilizing Adobe Reader.

a. *Adobe Reader.* Adobe Reader is available for free to download from on the Download Software page: *http://www.grants.gov/help/download_software.jsp.* Adobe Reader allows applicants to read the electronic files in a form format so that they will look like any other Standard form. The Adobe Reader forms have content sensitive help. This engages the content sensitive help for each field you will need to complete on the form. The Adobe Reader forms can be downloaded and saved on your hard drive, network drive(s), or CDs.

b. **Note:** For the Adobe Reader, Grants.gov is compatible with versions 8.1.1 and later versions. Always refer to the Download Software page for compatible versions. Please do not use lower versions of the Adobe Reader.

c. *Mandatory Fields in Adobe Forms.* In the Adobe Reader forms, you will note fields that will appear with a background color on the data fields to be completed. These fields are mandatory fields and they must be completed to successfully submit your application.

Note: When uploading attachments please use generally accepted formats such as .pdf, .doc, and .xls. While you may imbed picture files such as .jpg, .gif. .bmp, in your files, please do not save and submit the attachment in these formats. Additionally, the following formats will not be accepted: .com, .bat, .exe, .vbs, .cfg, .dat, .db, .dbf, .dll, .ini, .log. .ora, .sys, and .zip.

Experiencing Unforeseen www.grants.gov Technical Issues

If you experience unforeseen *www.grants.gov* technical issues beyond your control that prevent you from submitting your application by 5 p.m. EDT on July 26, 2013, you must contact us at *Nina.Tatyanina@dot.gov* or (202) 366–9959 within 24 hours following the deadline and request approval to submit your application after the deadline has passed. At that time, DOT staff will require you to provide your DUNS number and your *www.grants.gov* Help Desk tracking number(s). After DOT staff review all of the information submitted and contact the *www.grants.gov* Help Desk to validate the technical issues you reported, DOT staff will contact you to either approve or deny your request to submit a late application through *www.grants.gov.* If the technical issues you reported cannot be validated, your application will be rejected as untimely. To ensure a fair competition for limited discretionary funds, the following conditions are not valid reasons to permit late submissions: (1) Failure to complete the registration process before the deadline date; (2) failure to follow *www.grants.gov* instructions on how to register and apply as posted on its Web site; (3) failure to follow all of the instructions in the funding availability notice; and (4) technical issues experienced with the applicant's computer or information technology (IT) environment.

BILLING CODE 4910–9X–P

APPLICATION UNDER

SMALL COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM

DOCKET DOT-OST-2013-0120

SUMMARY INFORMATION

All applicants must submit this Summary Information schedule, as the application coversheet, a completed standard form SF424 and the full application proposal on www.grants.gov.

For your preparation convenience, this Summary Information schedule is located at http://www.dot.gov/policy/aviation-policy/small-community-rural-air-service/SCASDP

A. PROVIDE THE LEGAL SPONSOR AND ITS DUN AND BRADSTREET (D&B) DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER, INCLUDING +4, EMPLOYEE IDENTIFICATION NUMBER (EIN) OR TAX ID.

Legal Sponsor Name:

_____

DUNS Number:

_____

EIN/Tax ID:

_____

B. LIST THE NAME OF THE COMMUNITY OR CONSORTIUM OF COMMUNITIES APPLYING:

1._____

2._____

3._____

4._____

C. PROVIDE THE FULL AIRPORT NAME AND 3-LETTER IATA AIRPORT CODE FOR THE APPLICANT(S) AIRPORT(S) (ONLY PROVIDE CODES FOR THE AIRPORT(S) THAT ARE ACTUALLY SEEKING SERVICE).

1. 2.

3. 4.

D. LIST THE 2-DIGIT CONGRESSIONAL DISTRICT CODE APPLICABLE TO THE SPONSORING ORGANIZATION, AND IF A CONSORTIUM, TO EACH PARTICIPATING COMMUNITY.

1. 2.

3. 4.

E. APPLICANT INFORMATION: (CHECK ALL THAT APPLY)

☐ Not a Consortium ☐ Interstate Consortium ☐ Intrastate Consortium

☐

☐ Community now receives subsidized Essential Air Service

Community (or Consortium member) previously received a Small Community Air Service Development Program Grant

If previous recipient: Year of grant(s): _____

F. PUBLIC/PRIVATE PARTNERSHIPS: (LIST ORGANIZATION NAMES)

PUBLIC	PRIVATE
1.	1.
2.	2.
3.	3.
4.	4.
5.	5.

G. PROJECT PROPOSAL: (CHECK ALL THAT APPLY)

☐ Marketing	☐ Upgrade Aircraft	☐ New Route
☐ Travel Bank	☐ Service Restoration	☐ Subsidy
☐ Surface Transportation	☐ Regional Service	☐ Revenue Guarantee
☐ Launch New Carrier	☐ Start-up Cost Offset	☐ First Service
☐ Study	☐ Secure Additional Service	☐ Other (explain below)

H. EXISTING LANDING AIDS AT LOCAL AIRPORT:

☐ Full ILS	☐ Outer/Middle Marker	☐ Published Instrument Approach
☐ Localizer	☐ Other (specify)	

I. PROJECT COST: DO NOT ENTER TEXT IN SHADED AREA

LINE	DESCRIPTION		SUB TOTAL	TOTAL AMOUNT
1	Federal amount requested			
2	State cash financial contribution			
	Local cash financial contribution			
	3a	Airport cash funds		
	3b	Non-airport cash funds		
3	Total local cash funds (***3a + 3b***)			
4	TOTAL CASH FUNDING (***1+2+3***)			
	In-Kind contribution			
	5a	Airport In-Kind contribution**		
	5b	Other In-Kind contribution**		
5	TOTAL IN-KIND CONTRIBUTION (***5a + 5b***)			
6	TOTAL PROJECT COST (***4+5***)			

J. IN-KIND CONTRIBUTIONS**

For funds in lines 5a (Airport In-Kind contribution) and 5b (Other In-Kind contribution), please describe the source(s) of fund(s) and the value ($) of each.

K. Is This Application Subject To Review By State Under Executive Order 12372 Process?

☐ a. This application was made available to the state under the Executive Order 12372 Process for review on (date) _____.

☐ b. Program is subject to E.O. 12372, but has not been selected by the state for review.

☐ c. Program is not covered by E.O. 12372.

L. Is The Applicant Delinquent On Any Federal Debt? (If "Yes", Provide Explanation)

☐ No ☐ Yes (explain)

_____

_____

APPLICATION CHECKLIST

INCLUDED?	ITEM
	For Immediate Action
	Determine Eligibility
	New Grants.gov users must register with www.grants.gov. Existing Grants.gov users *must verify existing www.grants.gov account has not expired and the Authorized Organization Representative (AOR) is current.*
	For Submission by 5:00 PM EDT on July 26, 2013
	Communities with active SCASDP grants: notify DOT/X50 of intent to terminate existing grant in order to be eligible for selection in FY2013.
	Complete Application for Federal Domestic Assistance (SF424) via www.grants.gov
	Summary Information schedule complete and used as cover sheet (see **Appendix B**)
	Application of up to 20 one-sided pages (excluding any letters from the community or an air carrier showing support for the application), to include:
	• A description of the community's air service needs or deficiencies.
	• A strategic plan for meeting those needs under the Small Community Program.
	• A detailed description of the funding necessary for implementation of the community's project.
	• An explanation of how the proposed project differs from any previous projects for which the community received SCASDP funds (if applicable).
	• Designation of a legal sponsor responsible for administering the program.
	• A motion for confidential treatment (if applicable).

Confidential Commercial Information

Applicants will be able to provide certain confidential business information relevant to their proposals on a confidential basis. Under the Department's Freedom of Information Act regulations (49 CFR 7.17), such information is limited to commercial or financial information that, if disclosed, would either likely cause substantial harm to the competitive position of a business or enterprise or make it more difficult for the Federal Government to obtain similar information in the future.

Applicants seeking confidential treatment of a portion of their applications must segregate the confidential material in a sealed envelope marked "Confidential Submission of X (the applicant) in Docket DOT–OST–2013–0120," and include with that material a request in the form of a motion seeking confidential treatment of the material under 14 CFR 302.12 ("Rule 12") of the Department's regulations. The applicant should submit an original and two copies of its motion and an original and two copies of the confidential material in the sealed envelope.

The confidential material should *not* be included with the original of the applicant's proposal that is submitted via *www.grants.gov*. The applicant's original submission, however, should indicate clearly where the confidential material would have been inserted. If an applicant invokes Rule 12, the confidential portion of its filing will be treated as confidential pending a final determination. All confidential material must be received by July 26, 2013, and delivered to the Office of Aviation Analysis, 8th Floor, Room W86–307, 1200 New Jersey Ave. SE., Washington, DC 20590.

A template for the confidential motion can be found at *http://www.dot.gov/policy/aviation-policy/small-community-rural-air-service/SCASDP*.

[FR Doc. 2013–15525 Filed 6–25–13; 4:15 pm]

BILLING CODE 4910–9X–C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Competition Plans, Passenger Facility Charges

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. Title 49, United States Code,

Sections 40117 (k) and 47106 (f) require that a covered airport submit a written competition plan to the Secretary/Administrator in order to receive approval to impose a Passenger Facility Charge (PFC) or to receive a grant under the Airport Improvement Program (AIP).

DATES: Written comments should be submitted by August 26, 2013.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.A.DePaepe@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0661.

Title: Competition Plans, Passenger Facility Charges.

Form Numbers: There are no FAA forms associated with this collection of information.

Type of Review: Renewal of an information collection.

Background: The DOT/FAA will use any information submitted in response to this requirement to carry out the intent of Title 49, Sections 40117(k) and 47106(f), which is to assure that a covered airport has, and implements, a plan that affects its business practices to provide opportunities for competitive access by new entrant carriers or carriers seeking to expand. The affected public includes public agencies controlling medium or large hub airports.

Respondents: 5 affected airports annually.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 136 hours.

Estimated Total Annual Burden: 680 hours.

ADDRESSES: Send comments to the FAA at the following address: Ms. Kathy DePaepe, Room 126B, Federal Aviation Administration, AES–200, 6500 S. MacArthur Blvd., Oklahoma City, OK 73169.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC, on June 20, 2013.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2013–15322 Filed 6–26–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Service Difficulty Report

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval for to renew an information collection. The collection involves requirements for operators and repair stations to report any malfunctions and defects to the Administrator.

DATES: Written comments should be submitted by August 26, 2013.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.A.DePaepe@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0663.

Title: Service Difficulty Report.

Form Numbers: FAA Form 8070–1.

Type of Review: Renewal of an information collection.

Background: This collection affects certificate holders operating under 14 CFR part 121, 125, 135, and 145 who are required to report service difficulties. The data collected identifies mechanical failures, malfunctions, and defects that may be a hazard to the operation of an aircraft. The FAA uses this data to identify trends that may facilitate the early detection of airworthiness problems.

Respondents: Approximately 7,695 air carriers and repair stations.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 10 minutes.

Estimated Total Annual Burden: 6,107 hours.

ADDRESSES: Send comments to the FAA at the following address: Ms. Kathy DePaepe, Room 126B, Federal Aviation Administration, AES–200, 6500 S. MacArthur Blvd., Oklahoma City, OK 73169.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility, and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC on June 20, 2013.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2013–15319 Filed 6–26–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Aviation Research Grants Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The FAA Aviation Research and Development Grants Program establishes uniform policies and procedures for the award and administration of research grants to colleges, universities, not for profit organizations, and profit organizations for security research. The collection of data is required from prospective grantees in order to adhere to applicable statutes and OMB circulars.

DATES: Written comments should be submitted by August 26, 2013.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.A.DePaepe@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0559.

Title: Aviation Research Grants Program.

Form Numbers: SF–269, SF–270, SF–272, SF–424, SF–3881, FAA Form 9550–5.

Type of Review: Renewal of an information collection.

Background: This program implements OMB Circular A–110, Public Law 101–508, Section 9205 and 9208 and Public Law 101–604, Section 107(d). Information is required from grantees for the purpose of grant administration and review in accordance with applicable OMB circulars. The information is collected through a solicitation that has been published by the FAA. Prospective grantees respond to the solicitation using a proposal format outlined in the solicitation in adherence to applicable FAA directives, statutes, and OMB circulars.

Respondents: Approximately 100 grantees.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 6.5 hours.

Estimated Total Annual Burden: 650 hours.

ADDRESSES: Send comments to the FAA at the following address: Ms. Kathy DePaepe, Room 126B, Federal Aviation Administration, AES–200, 6500 S. MacArthur Blvd., Oklahoma City, OK 73169.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC on June 20, 2013.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. 2013–15323 Filed 6–26–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Intent To Prepare an Environmental Impact Statement for Increased Transit Service to King of Prussia, PA

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of Intent (NOI) to prepare an Environmental Impact Statement and Section 4(f) Evaluation.

SUMMARY: The FTA and the Southeastern Pennsylvania Transportation Authority (SEPTA) are planning to prepare an Environmental Impact Statement (EIS) and Section 4(f) Evaluation for increased transit service to King of Prussia, PA. The EIS will be prepared in accordance with regulations implementing the National Environmental Policy Act (NEPA), as well as FTA's regulations and guidance for implementing NEPA (40 CFR 1501.2 through 8 and 23 CFR 771.111). FTA is issuing this notice to solicit public and agency input regarding the scope of the EIS and to advise the public and agencies that outreach activities conducted by SEPTA and its representatives will be considered in the preparation of the EIS. SEPTA is undertaking this Draft EIS under current FTA regulations and guidance. SEPTA has indicated that it intends to seek FTA New Starts funding.

DATES: An Agency Scoping Meeting will be held on Tuesday, July 16, 2013 at 10:00 a.m., at the Radisson Hotel at the Valley Forge Casino Resort, South Ballroom, 1160 First Avenue, King of Prussia, PA, 19406. Persons should enter the hotel entrance to reach the South Ballroom. Representatives from federal, state, regional, tribal, and local agencies that may have an interest in the project will be invited to serve as either participating or cooperating agencies. A Public Scoping Meeting will be held on Tuesday, July 16, 2013 from 4:00 to 8:00 p.m. at the Radisson Hotel at the Valley Forge Casino Resort, 1160 First Avenue, King of Prussia, PA, 19406. Persons should enter the hotel entrance to reach the South Ballroom. An informational presentation explaining the proposed project will be held at 6:00 p.m. All persons are invited to provide oral comments on the scope of the EIS throughout the Scoping Meeting. Individuals wishing to speak are required to register as they sign in. Anyone needing special assistance should contact Mr. John Mullen, Outreach Coordinator at (215) 592–4200 or via email at *info@kingofprussiarail.com*, in advance of the meeting. Spanish and sign language interpreters will be available at the Public Scoping Meeting.

Written comments on the scope of the EIS, including the project's purpose and need, the alternatives to be considered, and the impacts to be evaluated should be sent on or before August 14, 2013 via mail, fax or email to: Mr. Sheldon Fialkoff, Project Manager, AECOM, 1700 Market Street, Suite 1600, Philadelphia, PA 19103, 215–735–0883 (fax), *Shelly.Fialkoff@aecom.com.*

Written comments regarding the scope of the EIS can also be made via the project's Web site at *www.kingofprussiarail.com* on or before August 14, 2013.

FOR FURTHER INFORMATION CONTACT: Mr. Tony Cho, Community Planner, Federal Transit Administration, 1760 Market Street, Suite 500, Philadelphia, PA 19103, (215) 656–7250; or Mr. Byron Comati, Project Director, SEPTA, 1234 Market Street, 9th Floor, Philadelphia, PA 19107, (215) 580–3781. Additional project information and scoping materials will be available at the meetings and on the project Web site (*http://www.kingofprussiarail.com*).

SUPPLEMENTARY INFORMATION:

Scoping

FTA and SEPTA will undertake a scoping process that will allow the public and interested agencies to comment on the scope of the environmental review process. Scoping is the process of determining the scope, focus, and content of an EIS. NEPA scoping has specific objectives, identifying the significant issues that will be examined in detail during the EIS, while simultaneously limiting consideration and development of issues that are not truly significant. FTA and SEPTA invite all interested individuals and organizations, public agencies, and Native American tribes to comment on the scope of the Draft EIS. To facilitate public and agency comment, a Draft Scoping Document will be prepared for review and will be available at the meeting. Included in this document will be draft descriptions of the purpose and need for the project; the alternatives proposed; the impacts to be assessed; early alternatives that are currently not being considered; and the public outreach and agency coordination process.

Description of Study Area and Proposed Project

The Norristown High Speed Line (NHSL) currently provides passenger rail service between the 69th Street Transportation Center (in Upper Darby)

and the Norristown Transportation Center (in the Municipality of Norristown), serving the Main Line area in Delaware and Montgomery Counties, Pennsylvania. At the 69th Street Transportation Center, connections can be made to Center City Philadelphia via SEPTA's Market-Frankford Line, SEPTA's Route 101 and 102 Trolleys, and 18 SEPTA bus routes. Besides service to Norristown, Upper Darby and on to Philadelphia, the NHSL serves a number of important origins and destinations along its line such as Haverford College, Bryn Mawr College, Villanova University, Eastern University, Cabrini College, Rosemont College, as well as Bryn Mawr Hospital.

Even though the NHSL passes through Upper Merion Township, which includes the King of Prussia area, the rail line runs about two to three miles east of many major activity centers in the area, including the King of Prussia Mall. Reaching the King of Prussia area from the NHSL currently requires a transfer to bus service. Six SEPTA bus routes serve the area and ridership has been increasing over the past several years. The area is at the confluence of several major highways; the Pennsylvania Turnpike, I–76 (Schuylkill Expressway), Route 422, and Route 202. These highways suffer from growing congestion and delays; bus travel on these roadways is subject to the same congestion and delays.

In addition to the King of Prussia Mall, the study area encompasses other major destinations that are focal points of employment density, residential density, and/or trip attractions. The study area is bounded roughly by the Schuylkill River, Route 422, I–76 (Schuylkill Expressway) and the existing NHSL. The study area has a large amount of commercial activity, including business, hotel and light industrial warehouse uses and is home to employers such as Lockheed Martin, GSI and Arkema. Additionally, the study area contains the Valley Forge Convention Center and Casino Resort and Valley Forge National Historical Park, which are regional destinations.

Project Background

The concept of providing improved transit access to the King of Prussia and Valley Forge areas dates back many years. A deficiency in rail transit services to the study area has been identified in various forms for more than 20 years in regional transportation studies and in Upper Merion Township's adopted Land Use Plan. In 2003, SEPTA completed the Route 100 Extension Draft Alternatives Analysis (AA). This study, conducted in accordance with FTA guidelines, identified a full range of alternatives, screened alternatives and evaluated the feasibility and costs of alternatives to extend the NHSL to the study area. The study identified and evaluated four different alignments between the NHSL and the King of Prussia Mall, and it identified a feasible alignment beyond the mall. The study was coordinated with other studies then occurring for SEPTA's proposed Cross-County Metro and Schuylkill Valley Metro services. Copies of these previous studies are available at SEPTA, 1234 Market Street, 9th Floor, Philadelphia, PA 19107, (215) 580–7919 or (215) 580–3781.

Purpose of and Need for the Proposed Project

The purpose of the proposed project is to provide a faster, more reliable public transit service that offers improved transit connections to the King of Prussia/Valley Forge area from communities along the existing Norristown High Speed Line, Norristown and Philadelphia; improve connectivity between major destinations within the King of Prussia/Valley Forge area; better serve existing transit riders; and accommodate new transit patrons. The project need stems from deficiencies of current transit services in terms of long travel times, delays due to roadway congestion, required transfers leading to two or more seat trips, and destinations underserved, or currently not served, by public transit. These needs are strengthened by growing travel demands in the King of Prussia and Valley Forge areas generated by existing and future economic development opportunities.

Proposed Alternatives

The Draft EIS will evaluate various alternative transit alignments to make the connection between the NHSL and destinations in King of Prussia. The preliminary list of alternatives to be considered in the Draft EIS will include the following No Build Alternative and various Build Alternatives:

- *No Build Alternative:* Represents future conditions in the EIS analysis year of 2040 without the proposed project. The No Build Alternative includes the existing transit and transportation system in the region plus all projects in the region's fiscally constrained long range transportation plan. The No Build Alternative is included in the Draft EIS as a means of comparing and evaluating the impacts and benefits of the Build Alternatives.
- *Build Alternatives:* The Build Alternatives are based on an initial feasibility analysis. Build Alternatives will include alternative transit alignments, station locations, and design configurations that could meet the project's purpose and need. The range of Build Alternatives will include those reasonable alternatives uncovered during public scoping and are to be the outcome of a tiered screening and alternatives definition process that will primarily use existing transportation or utility rights of way. These rights of way include elevated rail service along a PECO energy alignment, alignments along Route 202 and Interstate 276, as well as alignments along inactive freight rail tracks and other public streets north of the King of Prussia Mall. The full range of alternatives will be subjected to this tiered screening and alternatives definition process in order to arrive at the subset of the most reasonable Build Alternatives that will undergo detailed study and evaluation within the DEIS.
- No bus alternatives on existing travel lanes will be studied in the DEIS because SEPTA already provides 6 different bus routes to the King of Prussia/Valley Forge areas, including express bus service from Center City Philadelphia. Given the study area's extensive road congestion, additional bus service is not a feasible alternative. Bus riders are subject to the same congestion delays as motorists, as buses share the roadway travel lanes. In particular, increased or improved bus service is not feasible on I–76, the primary highway corridor from Center City Philadelphia, because of high levels of congestion and limitations of the terrain do not allow for additional lane capacity. For example, two of the current SEPTA bus routes, which run the longest distance on I–76, have the lowest cumulative on-time performance in the entire SEPTA bus system.

Probable Effects

FTA and SEPTA will evaluate project-specific direct, indirect, and cumulative effects to the existing physical, social, economic, and environmental setting in which the Build Alternatives could be located. The permanent, long-term effects to the region could include effects to traffic and transportation, land use and socio-economics, visual character and aesthetics, noise and vibration, historical and archaeological resources, community impacts, and natural resources. Temporary impacts during construction of the project could include effects to transportation patterns, air quality, noise and vibration, natural resources, and contaminated and hazardous materials. The analysis will be undertaken in conformity with all Federal environmental laws, regulations, and

executive orders applicable to the proposed project during the environmental review process to the maximum extent practicable. These requirements include, but are not limited to NEPA, Council on Environmental Quality regulations, FTA guidance and relevant environmental guidelines, Section 106 of the National Historic Preservation Act, Section 4(f) of the Department of Transportation Act, Executive Order 12898 regarding minority and low-income populations, Executive Order 11990 regarding the protection of wetlands, the Clean Water Act, the Endangered Species Act of 1973, and the Clean Air Act of 1970, along with other applicable Federal and State regulations. Opportunities for comment on the potential effects will be provided to the public and agencies, and comments received will be considered in the development of the final scope and content of the EIS.

Public and Agency Involvement Procedures

The regulations implementing NEPA and FTA guidance call for public involvement in the EIS process. In accordance with these regulations and guidance, FTA/SEPTA will:

(1) Extend an invitation to other Federal and non-Federal agencies and Native American Tribes that may have an interest in the proposed project to become participating agencies (any interested agency that does not receive an invitation can notify any of the contact persons listed earlier in this NOI);

(2) Provide opportunity for involvement by participating agencies and the public to help define the purpose and need for the proposed project, as well as the range of alternatives for consideration in the EIS; and

(3) Establish a plan for coordinating public and agency participation in, and comment on, the environmental review process.

Input on a Public Involvement Plan and Agency Coordination Plan will be solicited at the scoping meeting and on the Web site. The documents will outline public and agency involvement for the project. Once completed, these documents will be available on the project Web site or through written request.

The Paperwork Reduction Act

The Paperwork Reduction Act seeks, in part, to minimize the cost to the taxpayer of the creation, collection, maintenance, use, dissemination, and disposition of information. Consistent with this goal and with principles of economy and efficiency in government, it is FTA policy to limit, insofar as possible, distribution of complete printed sets of NEPA documents. Accordingly, unless a specific request for a complete printed set of the NEPA document is received before the document is printed, FTA and its grant applicants will distribute only electronic copies of the NEPA document. A complete printed set of the environmental document will be available for review at the grant applicant's offices and elsewhere; an electronic copy of the complete environmental document will be available on the grant applicant's project Web site, *http://www.kingofprussiarail.com.*

Summary/Next Steps

With the publication of this NOI, the scoping process and the public comment period for the project begins, allowing the public to offer input on the scope of the EIS until August 14, 2013. Public comments will be received through those methods explained earlier in this NOI and will be incorporated into a Final Scoping Document. This document will detail the scope of the EIS and the potential environmental effects that will be considered during the study period. After the completion of the Draft EIS, another public comment period will allow for input on the Draft EIS, and these comments will be incorporated into the Final EIS report prior to publication.

Issued on: June 21, 2013.

Reginald B. Lovelace,

Deputy Regional Administrator, FTA Region 3.

[FR Doc. 2013–15411 Filed 6–26–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. DOT–NHTSA–2013–0028]

Request for Comments on a New Information Collection

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on April 9, 2013 (78 FR 21189).

DATES: Comments must be submitted on or before July 29, 2013.

FOR FURTHER INFORMATION CONTACT: Mr. Patrick Hallan, (202) 366–9146, NHTSA, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Title: 49 CFR 571.116, Motor Vehicle Brake Fluids.

OMB Control Number: 2127–0521.

Type of Request: New Information Collection.

Abstract: Federal Motor Vehicle Safety Standard No. 116, *Motor Vehicle Brake Fluids,* specifies performance and design requirements for motor vehicle brake fluids and hydraulic system mineral oils. Section 5.2.2 of the standard specifies labeling requirements for manufacturers and packagers of brake fluids as well as packagers of hydraulic system mineral oils. The label on a container of motor vehicle brake fluid or hydraulic system mineral oil is permanently attached, clearly states the contents of the container, and includes a DOT symbol indicating that the contents of the container meet the requirements of FMVSS No. 116. The label is necessary to help ensure that these fluids are used for their intended purpose only and the containers are properly disposed of when empty. Improper use, storage, or disposal of these fluids could represent a significant safety hazard for the operators of vehicles or equipment in which they are used and for the environment.

Affected Public: Business or other for profit organizations.

Number of Respondents: 200.

Number of Responses: 70,000,000.

Total Annual Burden Hours: 7,000.

Frequency of Collection: N/A.

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, 725 17th Street NW., Washington, DC 20503, Attention NHTSA Desk Officer or to the Docket Management System, Docket Number NHTSA–2013–0028 at *http://www.regulations.gov/.*

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and

clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1:48.

Issued on: June 21, 2013.

Christopher J. Bonanti

Associate Administrator for Rulemaking.

[FR Doc. 2013–15401 Filed 6–26–13; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2012–0116; Notice 2]

BMW of North America, LLC, a Subsidiary of BMW AG, Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Grant of Petition.

SUMMARY: BMW of North America, LLC (BMW) [1], a subsidiary of BMW AG [2], Munich, Germany, has determined that certain model year (MY) 2012 MINI Cooper Countryman passenger cars with optional three passenger rear seating and manufactured between August 1, 2011 and May 23, 2012, do not fully comply with paragraph S4.3 (b) of Federal Motor Vehicle Safety Standard (FMVSS) No. 110, *Tire selection and rims and motor home/recreation vehicle trailer load carrying capacity information for motor vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or less.* BMW has filed an appropriate report dated June 1, 2012, pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports.*

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR Part 556, BMW has petitioned 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. Notice of receipt of the petition was published, with a 30-day public comment period, on September 13, 2012 in the **Federal Register** (77 FR 56700). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: *http://www.regulations.gov/.* Then follow the online search instructions to locate docket number "NHTSA–2012–0116."

FOR FURTHER INFORMATION CONTACT: For further information on this decision contact Ms. Amina Fisher, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–5307.

Vehicles Involved: Affected are approximately 5,700 MY 2012 MINI Cooper Countryman passenger vehicles with optional three passenger rear seating manufactured between August 1, 2011 and May 23, 2012.

Summary of BMW'S Analyses: BMW explains that the noncompliance is that the vehicle placard on the affected vehicles incorrectly identifies the rear designated seating capacity as "2" when in fact it should be "3," and the total designated seating capacity as "4" when in fact it should be "5."

BMW states that while the vehicle placard incorrectly identifies the vehicle seating capacity, this noncompliance is inconsequential to motor vehicle safety for the following reasons:

1. It would become clear to a vehicle owner that the rear seat of an affected vehicle contains three sets of seat belts, provides adequate space for three people to occupy the rear seat and that the vehicle in fact does accommodate five passengers not four as labeled.

2. The tire pressure value on the vehicle placard is correct. In fact, the recommended tire inflation pressure for both the five passenger and the four passenger vehicles is the same. Therefore, there is no risk of under-inflation.

3. The vehicle capacity weight listed on the vehicle placard is correct, and is the same for Countryman model vehicles built for four or five occupants. Therefore, there is no risk of overloading.

4. The vehicle's Monroney label [3] contains a listing of all options that have been equipped on the affected vehicles. The option regarding the rear seat for three occupants is noted on the Monroney label; therefore, an owner would have been notified at time of purchase of the vehicle that the rear seat is equipped to accommodate three occupants.

5. The vehicle Owner's Manual contains information pertaining to the vehicle's tires, tire pressure and the vehicle capacity weight. Therefore, if owners check the Owner's Manual, correct information is available for their use.

6. BMW also provides vehicle drivers with help determining the correct tire, tire pressure and loading information by way of toll-free telephone numbers for MINI Roadside Assistance™ (available 24 hours/day) and MINI Customer Relations.

7. BMW has received no customer complaints and is unaware of any accidents or injuries regarding this noncompliance of the affected vehicles.

BMW has additionally informed NHTSA that it has corrected future production and that all other required markings are present and correct.

In summation, BMW 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.

Background Requirement: Section § 4.3 (b) of FMVSS No. 110 specifically states:

> § 4.3 *Placard.* Each vehicle, except for a trailer or incomplete vehicle, shall show the information specified in § 4.3 (a) through (g), . . . , on a placard permanently affixed to the driver's side B-pillar . . .
>
> (b) Designated seated capacity (expressed in terms of total number of occupants and number of occupants for each front and rear seat location); . . .

NHTSA Decision: NHTSA has reviewed BMW's analyses that the noncompliance is inconsequential to motor vehicle safety. NHTSA agrees that understating the number of rear seat occupants poses little safety risk, and vehicle owners will observe three seat belts and correctly identify three seating positions. BMW has provided sufficient documentation that the vehicle placard does comply with all other safety performance requirements. Since the vehicle placard clearly states the correct vehicle capacity weight and tire inflation pressure and NHTSA has verified both are compatible with five occupants, there is little risk of vehicle overloading.

In consideration of the foregoing, NHTSA has decided that BMW has met its burden of persuasion and that the subject FMVSS No. 110 noncompliance is inconsequential to motor vehicle safety. Accordingly, BMW's petition is hereby granted, and BMW is exempted from the obligation of providing notification of, and a remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

[1] BMW of North America, LLC is a U.S. company that manufactures and imports motor vehicles.

[2] BMW AG is a German company that manufactures motor vehicles.

[3] *Automobile Information Disclosure Act* (AIDA), 15 U.S.C. 1231–1233.

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, this decision only applies to approximately 5,700 vehicles that BMW no longer controlled at the time that it determined that a noncompliance existed in the subject vehicles. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after BMW 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)

Issued On: June 19, 2013.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2013–15464 Filed 6–26–13; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2010–0166; Notice 2]

Panda Power LLC, Denial of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Denial of Petition.

SUMMARY: Panda Power LLC (Panda Power) [1], has determined that High Intensity Discharge (HID) lighting kits [2] that it imported and sold during 2007, 2008 and 2009 failed to meet the requirements of paragraph S7.7 of Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment.* Panda Power has filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports,* dated February 10, 2010.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR Part 556, Panda Power has petitioned 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. Notice of receipt of the petition was published, with a 30-day public comment period, on December 21, 2010 in the **Federal Register** (75 FR 80110). Comments were received from Daniel Stern Lighting Consultancy and Michael F. Turpen. To view the petition, all supporting documents, and the comments, log onto the Federal Docket Management System (FDMS) Web site at: *http://www.regulations.gov/.* Then follow the online search instructions to locate docket number "NHTSA–2010–0166."

FOR FURTHER INFORMATION CONTACT: For further information on this decision, contact Mr. Michael Cole, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–2334, facsimile (202) 366–7002.

Lighting Kits Involved: Affected are approximately 1,851 headlamp kits that Panda Power sold during 2007, 2008 and 2009. All of the affected HID headlamp kits were manufactured by Guangzhou Kingwoodcar Company, LTD, Guangzhou City, China.

Summary of Panda Power's Analyses: Panda Power did not describe the noncompliances in detail, instead it deferred to the agency's concern that the subject HID headlamp kits may not comply with one or more of the regulations enforced by the agency. This concern was described as an apparent noncompliance in a letter NHTSA sent to Panda Power dated September 2, 2009. The letter was sent to Panda Power as part of a National Highway Traffic Safety Administration (NHTSA) Office of Vehicle Safety Compliance Office Activity.[3]

In their petition, Panda Power argues that the noncompliance is inconsequential to motor vehicle safety for the following reasons: (1) The HID headlamp kits were originally intended for sale to the agricultural community to be placed on tractors and combines, for off-road vehicles, and for exhibition purposes; (2) the HID bulbs that were sold with the kits in 2007 and 2008 are likely burned out by now and no longer functioning; and (3) Panda Power no longer sells the HID headlamp kits.

Supported by the above stated reasons, Panda Power believes that although the HID headlamp kits do not meet the required dimensional and electrical specifications of FMVSS No. 108, the noncompliance is inconsequential to motor vehicle safety and that its petition, to exempt it 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.

Discussion

Requirement Background

Paragraph S7.7 of FMVSS No. 108 requires in pertinent part:

S7.7 *Replaceable light sources.* Each replaceable light source shall be designed to conform to the dimensions and electrical specifications furnished with respect to it pursuant to part 564 of this chapter, and shall conform to the following requirements: (See a,b,c,d,e, and f)

A new motor vehicle must have a headlighting system that includes upper beams and lower beams. Among other things, the headlamps must provide light within a specified range of intensity in certain areas, and not provide light above specified levels in other areas. In general, vehicle manufacturers use one of a number of standard replaceable light sources to achieve the regulatory requirements, although alternatively they may devise or arrange for development of a new light source for a new vehicle. For each of these types of light sources, the dimensions and electrical specifications are furnished to NHTSA under 49 CFR Part 564. The vehicle manufacturer certifies that the vehicle with a particular light source meets FMVSSs, including FMVSS No. 108.

Each headlamp and item of associated equipment (such as a light source commonly referred to as a headlamp bulb) manufactured to replace any lamp or item of associated equipment must be designed to conform to FMVSS No. 108. Each replaceable light source must be designed to conform to the dimensions and electrical specifications furnished with respect to it pursuant to 49 CFR Part 564. In addition, NHTSA's regulations require that the base of the replaceable light source be marked with the bulb marking designation, that the replaceable light source meet lighting performance requirements and, if a ballast is required, additional requirements must be met.

Headlamp replaceable light sources have standard designations. NHTSA's regulations use terms for the various types of headlamp bulbs, such as HB1

[1] Panda Power, LLC (Panda Power) is organized under the laws of the State of Arizona and is the importer of the subject nonconforming replacement equipment. Panda Power sold the nonconforming replacement equipment while doing business under the name Mobile HID.

[2] Panda Power's high-intensity lighting (HID) kits each contained 2 light sources, 2 ballasts and a wiring harness with relay and fuse).

[3] Office Activity Number: OA–108–090606G.

and HB2. (Bulb manufacturers tend to use corresponding ANSI trade numbers such as 9004, as well). Each type of replaceable light source is unique in dimensional and electrical design so as not to be interchangeable with another type of replaceable light source. Every replaceable light source must be designed to conform to the marking, dimensional, and electrical specifications applicable to the type of replaceable light source that it replaces. For instance, the replacement light source must have the same (within a tolerance) luminous flux (a measure of light output) as the light source it replaces. When the light source is mounted in a headlamp for that type of light source, the lamp must discharge light in specified directions and intensity levels, to satisfy the same requirements of the standard. If it were otherwise, among other things, the wrong light sources could be placed in headlamps and the light output would be incorrect or improper.

NHTSA'S Analyses: Panda Power argues that the noncompliance is inconsequential to motor vehicle safety, primarily, because the kits were originally intended for sale to the agricultural community and to be placed on tractors and combines, or for off-road vehicles, or for exhibition purposes. NHTSA reviewed the Office Activity file for the original investigation with Panda Power. Excerpts from Panda Powers Web site, dated June 24, 2009, clearly indicate that these items are intended for motor vehicle headlamps. The site displays pictures of numerous passenger cars (e.g., Mercedes Benz, Lexus, Toyota, and Mitsubishi), references other motor vehicles (e.g., BMW), provides a link to Sylvania's replacement bulb guide for motor vehicles, and provides pictures of beam patterns as seen on roadways. It also provides troubleshooting tips for installations on motor vehicles containing daytime running lamps and how to stop lamp flicker when hitting bumps in the road. Because of this information, we find that Panda Powers claim that they sold these items for non-road use to be disingenuous.

Panda Power further states that its products are likely no longer functioning. Regardless of the quality of Panda Power's products, the Motor Vehicle Safety Act requires that manufacturers (defined to include importers) of noncompliant equipment must notify purchasers of the noncompliance (pursuant to 49 U.S.C. 30119) and provide a free remedy (pursuant to 49 U.S.C. 30120). If a free remedy cannot be provided then repurchase should be initiated in a reasonable time frame.

Panda Power also argues that because it stopped selling the HID conversion kits, it should not be required to conduct a recall and remedy campaign. Among other things, 49 U.S.C. 30112(a) prohibits the importation and sale of noncompliant equipment and Panda Power is compelled to discontinue this practice to prevent further violations of 49 U.S.C. 30112(a), and not as a waiver from the recall and remedy requirements. NHTSA'S Response to Comments: NHTSA received comments from two parties. Both of these parties recommend denying Panda Power's petition.

Daniel J. Stern of the Daniel Stern Lighting Consultancy provided a substantive, practical, and technical argument regarding the effects on headlamp performance when replacing standardized headlamp replaceable light sources with HID conversion kits. Mr. Stern stated that installing HID light sources into headlamps that were designed to accept tungsten-halogen light sources would create an enormous increase in glare light directed towards other road users, and reduce the driver's distance visual acuity due to increased foreground illumination. Mr. Stern also stated that the noncompliance created by Panda Power's HID kits appear to be systemic, pervasive, and substantial, creating a significant safety risk to the motoring public.

Michael F. Turpen, a private citizen, examined archives of Panda Power's Web site using *www.waybackmachine.org* (a Web site maintained by the Internet Archive, a 501(3)(c) non-profit corporation). He referenced archived pages of Panda Power's Web site that showed its HID Conversion kits installed on motor vehicles, photos of headlamp output on streets in residential neighborhoods, and banners that indicate "offering HID kits for any vehicle."

NHTSA Decision: In consideration of the foregoing, NHTSA has decided that Panda Power has not met its burden of persuasion that the FMVSS No. 108 noncompliances identified in Panda Power's Noncompliance Information Report does not present a significant safety risk resulting from increases in glare when its HID headlamp conversion kits are used in headlamps that were not designed for this type of light source. Therefore, NHTSA does not agree with Panda Power that this specific noncompliance is inconsequential to motor vehicle safety. Accordingly, Panda Power's petition is hereby denied, and the Panda Power must notify owners, purchasers and dealers pursuant to 49 U.S.C. 30118 and provide a remedy in accordance with 49 U.S.C. 30120.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at CFR 1.95 and 501.8)

Issued On: June 19, 2013.

Nancy Lummen Lewis,

Associate Administrator for Enforcement.

[FR Doc. 2013–15470 Filed 6–26–13; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2013–0006; Notice 1]

General Motors, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Receipt of Petition.

SUMMARY: General Motors, LLC (GM) [1] has determined that certain model year (MY) 2007 through 2013 GM trucks and multipurpose passenger vehicles (MPVs) manufactured from June 19, 2006, through December 6, 2012 do not fully comply with paragraph S4.3 of Federal Motor Vehicle Safety Standard (FMVSS) No. 110, *Tire Selection and Rims for Motor Vehicles with a GVWR of 4,536 Kilograms or less.* GM has filed an appropriate report dated December 19, 2012, pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports.*

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR Part 556), GM submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of GM's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Vehicles Involved: Affected are approximately 5,690: MY 2007 through 2013 Chevrolet Silverado trucks, Suburban MPVs and Tahoe MPVs; MY 2007 through 2013 GMC Sierra trucks; MY 2012 GMC Yukon MPVs; and MY 2007, 2009, 2011, 2012 and 2013 Yukon XL MPV's. The affected vehicles were

[1] General Motors, LLC is a manufacturer of motor vehicles and is registered under the laws of the state of Michigan.

manufactured from June 19, 2006 through December 6, 2012.

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 5,690 [2] vehicles that GM no longer controlled at the time it determined that the noncompliance existed.

RULE TEXT: Paragraph S4.3 of FMVSS No. 110 requires in pertinent part:

S4.3 Placard. Each vehicle, except for a trailer or incomplete vehicle, shall show the information specified in S4.3 (a) through (g), and may show, at the manufacturer's option, the information specified in S4.3 (h) and (i), on a placard permanently affixed to the driver's side B-pillar. In each vehicle without a driver's side B-pillar and with two doors on the driver's side of the vehicle opening in opposite directions, the placard shall be affixed on the forward edge of the rear side door. If the above locations do not permit the affixing of a placard that is legible, visible and prominent, the placard shall be permanently affixed to the rear edge of the driver's side door. If this location does not permit the affixing of a placard that is legible, visible and prominent, the placard shall be affixed to the inward facing surface of the vehicle next to the driver's seating position. This information shall be in the English language and conform in color and format, not including the border surrounding the entire placard, as shown in the example set forth in Figure 1 in this standard. At the manufacturer's option, the information specified in S4.3 (c), (d), and, as appropriate, (h) and (i) may be shown, alternatively to being shown on the placard, on a tire inflation pressure label which must conform in color and format, not including the border surrounding the entire label, as shown in the example set forth in Figure 2 in this standard. The label shall be permanently affixed and proximate to the placard required by this paragraph. The information specified in S4.3 (e) shall be shown on both the vehicle placard and on the tire inflation pressure label (if such a label is affixed to provide the information specified in S4.3 (c), (d), and, as appropriate, (h) and (i)) may be shown in the format and color scheme set forth in Figures 1 and 2. If the vehicle is a motor home and is equipped with a propane supply, the weight of full propane tanks must be included in the vehicle's unloaded vehicle weight. If the vehicle is a motor home and is equipped with an on-board potable water supply, the weight of such on-board water must be treated as cargo . . .

(b) Designated seated capacity (expressed in terms of total number of occupants and number of occupants for each front and rear seat location) * * *

Summary of Gm's Analyses: GM explains that the noncompliance is that the subject vehicles are equipped with special equipment options 9S1 & 9U3 and are built with 2 front seating positions separated by floor space. However, the tire and loading placards incorrectly indicate that the vehicles have 3 front seating positions and therefore do not fully comply with paragraph S4.3 of FMVSS No. 110.

GM further stated that the error resulted in the following condition on the subject placards of these vehicles:

- The seating capacity for the front row seat is incorrectly shown as 3 instead of 2.
- The total seating capacity is overstated by 1. For example, the total seating capacity is incorrectly shown as 3 instead of 2 for the vehicles with one row of seats, and as 6 instead of 5 for the vehicles with two rows of seats.
- The vehicle capacity weight (expressed as a combined weight of occupants and cargo) on the placard is correct. The seating capacity error has no impact on the vehicle capacity weight.
- All other information (front, rear and spare tire size designations and their respective cold tire inflation pressures as well as vehicle capacity weight) on the subject placards is correct.

GM stated its belief that this noncompliance is inconsequential to motor vehicle safety for the following reasons:

1. The subject vehicles are equipped with two bucket seats with one seat belt each in the front row. GM believes that the number of seats and the number of seat belts installed in the vehicle will clearly indicate to the customers the actual seating capacity, and it will be apparent to any observer that there are only two front seating positions. Even if an occupant references the tire information placard to determine the vehicle's seating capacity, it will be readily apparent that the front row seating capacity is 2 and not 3.

2. The vehicle capacity weight (expressed as a combined weight of occupants and cargo) on the placard is correct. The seating capacity error has no impact on the vehicle capacity weight, and therefore, there is no risk of vehicle overloading.

3. All information required for maintaining and/or replacing the front and rear tires is correct on the tire information placard of the subject vehicles.

4. All other applicable requirements of FMVSS No. 110 have been met.

5. GM is not aware of any customer complaints, incidents or injuries related to the incorrect seating capacity on the subject tire information placards.

GM additionally informed NHTSA that it has corrected the noncompliance so that all future production vehicles will fully comply with FMVSS No. 110.

In summation, GM believes that the described noncompliance of its vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

Comments: 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:

a. 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.

b. By hand delivery 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.

c. 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 1–202–493–2251.

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://*

[2] GM's petition, which was filed under 49 CFR Part 556, requests an agency decision to exempt GM as a motor vehicle manufacturer from the notification and recall responsibilities of 49 CFR Part 573 for the affected vehicles. However, a decision on this petition cannot relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, introduction or delivery for introduction into interstate commerce of the noncompliant motor vehicles under their control after GM notified them that the subject noncompliance existed.

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.

Comment Closing Date: July 29, 2013.

Authority: (49 U.S.C. 30118, 30120: Delegations of authority at 49 CFR 1.95 and 501.8)

Issued On: June 24, 2013.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2013–15467 Filed 6–26–13; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2013–0084]

Pipeline Safety: Information Collection Activities, Revisions to Incident and Annual Reports for Gas Pipeline Operators

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, PHMSA invites comments on an information collection under Office of Management and Budget (OMB) Control No. 2137–0522, titled "Incident and Annual Reports for Gas Pipeline Operators." PHMSA is preparing to revise seven forms which are included in this information collection. These forms include: PHMSA F 7100.1 Incident Report—Gas Distribution System; PHMSA F 7100.1–2 Mechanical Fitting Failure Report Form for Calendar Year 20__ for Distribution Operators; PHMSA F 7100.2 Incident Report—Natural and Other Gas Transmission and Gathering Pipeline Systems; PHMSA F 7100.2–1 Annual Report for Calendar Year 20__ Natural and Other Gas Transmission and Gathering Pipeline Systems; PHMSA F 7100.3 Incident Report—Liquefied Natural Gas Facilities; and PHMSA F 7100.3–1 Annual Report for Calendar Year 20__ Liquefied Natural Gas Facilities. In accordance with the Paperwork Reduction Act of 1995, PHMSA invites comments on the proposed revisions to these forms and instructions.

DATES: Interested persons are invited to submit comments on or before August 26, 2013.

ADDRESSES: Comments may be submitted in the following ways:

E-Gov Web site: http://www.regulations.gov. This site allows the public to enter comments on any **Federal Register** notice issued by any agency.

Fax: 1–202–493–2251.

Mail: Docket Management Facility; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590–0001.

Hand Delivery: Room W12–140 on the ground level of DOT, West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: Identify the docket number, PHMSA–2013–0084, at the beginning of your comments. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. You should know that 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.). Therefore, you may want to review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or visit *http://www.regulations.gov* before submitting any such comments.

Docket: For access to the docket or to read background documents or comments, go to *http://www.regulations.gov* at any time or to Room W12–140 on the ground level of DOT, West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. If you wish to receive confirmation of receipt of your written comments, please include a self-addressed, stamped postcard with the following statement: "Comments on: PHMSA–2013–0084." The Docket Clerk will date stamp the postcard prior to returning it to you via the U.S. mail. Please note that due to delays in the delivery of U.S. mail to Federal offices in Washington, DC, we recommend that persons consider an alternative method (internet, fax, or professional delivery service) of submitting comments to the docket and ensuring their timely receipt at DOT.

FOR FURTHER INFORMATION CONTACT: Angela Dow by telephone at 202–366–1246, by email at *Angela.Dow@dot.gov*, by fax at 202–366–4566, or by mail at DOT, PHMSA, 1200 New Jersey Avenue SE., PHP–30, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1320.8(d), Title 5, Code of Federal Regulations, requires PHMSA to provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies an information collection request that PHMSA will be submitting to OMB for revision. The information collection expires February 28, 2014, and is identified under OMB Control No. 2137–0522, titled: "Incident and Annual Reports for Gas Pipeline Operators." PHMSA is considering the revision of the seven forms that are contained within this information collection. The revisions to each of the forms are described below.

A. Gas Distribution Incident Report (PHMSA F. 7100.1)

PHMSA intends to revise the PHMSA F 7100.1 Incident Report—Gas Distribution System Form (GD Incident Report Form) by adding a pipe material type, adding a commodity type, changing system types, removing a system type, requiring additional fields, and revising the instructions. Background for these topics is as follows:

1. Adding Pipe Material Type of Reconditioned Cast Iron

PHMSA recognizes that reconditioned cast iron pipe may be used in gas distribution systems. This new pipe material type will be added as an option in part C4.

2. Adding Commodity of Landfill Gas

PHMSA recognizes that gas distribution pipelines may transport gas produced in landfills. In order to differentiate this type of gas, the

additional commodity choice is being added to part A9.

3. Changing System Types

Currently, part C1 is intended to identify the system type. However, the options are a combination of system types and commodity data. PHMSA proposes to modify the GD Incident Report Form to allow these choices for system type: Municipal, Privately Owned, and Other (e.g., cooperatives, public utility districts, etc.) Commodity data is entered in part A9.

4. Revise Instructions for National Response Center Report Number

PHMSA proposes to require a National Response Center (NRC) number in every GD Incident Report Form submission. PHMSA recognizes that in some cases an operator may submit multiple NRC reports for a single incident. An operator will be able to enter a single NRC number or select one of the following: NRC notification not required; NRC notification required but not made; or, do not know NRC report number. When there is more than one NRC report for an incident, an operator will be able to enter the first NRC report in this field and remaining NRC report numbers in Part H—Narrative.

5. Revise Instructions for City

Currently, the city field is not required as part of the report. While the vast majority of reports include the city, there have been occasions when the data should have been entered, but was not. PHMSA proposes to require the city field in every GD Incident Report Form submission to facilitate understanding about the location of the incident. Operators will also be able to enter "not within a municipality" in this field.

6. Revise Instructions for County or Parish

Currently, the county or parish field is not required as part of the report. While the vast majority of reports include the county or parish, there have been occasions when the data has not been entered. PHMSA proposes to require the county or parish field in every GD Incident Report Form submission to further facilitate understanding about the location of the incident.

7. Revise Instructions for Incident Preparer and Authorizer

Currently, operator contact information is not required, although it is often included. PHMSA proposes to require the name, email address, and phone number for each of these individuals in every GD Incident Report Form submission. PHMSA and state investigators need this contact information to facilitate communication with the operator. If an individual does not have a work email address, the operator will be able to enter "no email address" in this field.

8. Estimated Responses/Burden Hours Revisions

The vast majority of GD Incident Report Form reports already include the information described above or the information is readily available, so PHMSA does not anticipate an increase in the information collection burden for these changes.

B. Mechanical Fitting Failure Report Form (PHMSA F. 7100.1–2)

PHMSA intends to revise the PHMSA F 7100.1–2 Gas Distribution Mechanical Fitting Failures (MFF Report Form) to improve the granularity of the data collected and provide clarification to operators for selecting the cause of the mechanical fitting failure. Background for this topic is as follows:

1. Reporting "Incorrect Operation" as an Apparent Cause

PHMSA proposes to revise Question 15, "Apparent Cause of Leak," under Part C of the MFF Report Form. PHMSA is proposing to remove the option of reporting a "Construction/Installation Defect" from the "Material or Welds/Fusions" apparent cause category and revise the category to "Incorrect Operation." The apparent cause of "Incorrect Operation" should be identified when an operator reports a failure that apparently results from incorrect installation of the mechanical fitting. It is PHMSA's intent to capture failure data under the "Material or Welds/Fusions" leak cause category that is specific to manufacture, fabrication, material, and design defects of mechanical fittings.

2. Estimated Responses/Burden Hours Revisions

Currently, PHMSA estimates that 18,000 MFF Report Form submissions will be filed on an annual basis. In addition, PHMSA estimates that each submission will take about one hour to submit to PHMSA. Based on the MFF Report Form filings over the past year, PHMSA proposes to revise its estimate of the annual number of MFF Report Form submissions to 8,300 submissions (a 9,700 reduction). Based on electronic submission, PHMSA also proposes to revise its estimated time to file a report from one hour per submission to 30 minutes per submission. The resulting burden changes to information collections are described below.

C. Incident Report—Natural and Other Gas Transmission and Gathering Pipeline System (PHMSA F 7100.2)

PHMSA proposes to revise the PHMSA F 7100.2 Incident Report—Natural and Other Gas Transmission and Gathering Pipeline Systems Form (GTG Incident Report Form) by restoring a data element for how the maximum allowable operating pressure (MAOP) was determined, adding a commodity type, requiring additional fields, and revising the instructions. Background for these topics is as follows:

1. Restore MAOP Established by Section

In the 01–2002 edition of the GTG Incident Report Form, Part A2 collected data about how the MAOP of the pipeline system was established. This data element was removed when the form was revised in 2010. Through comments submitted in Docket PHMSA–2012–0024, the Interstate Natural Gas Association of America and other commenters strongly urged PHMSA to restore this data element. PHMSA is proposing to add the method of establishing MAOP in Part E of the GTG Incident Report Form. Response options will be the same as those found in Part Q of Form PHMSA F 7100.2–1 Annual Report for Calendar Year 20__ Natural and Other Gas Transmission and Gathering Pipeline Systems (GTG Annual Report Form). Furthermore, operators will be able to supplement GTG Incident Report Form submissions for incidents occurring after January 1, 2010 to populate this field.

2. Adding Commodity of Landfill Gas

PHMSA recognizes that gas transmission and gathering pipelines may transport gas produced in landfills. To differentiate this type of gas, PHMSA is proposing to add Landfill Gas as another commodity choice in Part A9.

3. Revise Instructions for National Response Center Report Number

PHMSA proposes to require this field (Part A6) in every GTG Incident Report Form submission. An operator will be able to enter a single NRC number or select one of the following: NRC notification not required; NRC notification required but not made; or, do not know NRC report number. In some cases an operator may submit multiple NRC reports for a single accident. When there is more than one NRC report for an accident, an operator will be able to enter the first report in this field and remaining NRC report numbers in Part H—Narrative.

4. Revise Instructions for City

Currently, the city field is not required as part of the report. While the vast majority of reports for onshore incidents include the city, there have been occasions when the data should have been entered, but was not. PHMSA proposes to require this field (Part B4) in every GTG Incident Report Form submission for an incident that occurs onshore to facilitate understanding about the location of the incident. Operators would also be able to enter "not within a municipality" in this field.

5. Revise Instructions for County or Parish

Currently, the county or parish field is not required as part of the report. While the vast majority of reports for onshore incidents include the county or parish, there have been occasions when the data has not been entered. PHMSA proposes to require this field (Part B5) in every GTG Incident Report Form submission for an incident that occurs onshore to facilitate understanding about the location of the incident.

6. Revise Instructions for Incident Preparer and Authorizer (Part I)

Currently, operator contact information is not required, although it is often included. PHMSA proposes to require the name, email address, and phone number for each of these individuals in every GTG Incident Report Form submission. PHMSA and State investigators need this contact information to facilitate communication with the operator. If an individual does not have a work email address, the operator will be able to enter "no email address" in this field.

7. Estimated Responses/Burden Hours Revisions

The vast majority of reports already include the above-described information or the information is readily available, so PHMSA does not anticipate an increase in the information burden for these changes.

D. Annual Report—Natural and Other Gas Transmission and Gathering Pipeline Systems (PHMSA F. 7100.2–1)

PHMSA proposes to revise the PHMSA F 7100.21 Annual Report—Natural and Other Gas Transmission and Gathering Pipeline Systems Form (GTG Annual Report Form) by removing and reserving Part C. Background for this topic is as follows:

Remove Part C—Volume Transported by Transmission Lines

PHMSA has used Part C of the GTG Annual Report to collect data on the volume transported by gas transmission lines. The collection of this data excluded "transmission lines of distribution systems". After reviewing two years of volume transported data, PHMSA has determined that the data collected is not on par with the data gas transmission operators submit to the Federal Energy Regulatory Commission (FERC). In an effort to eliminate duplicity of data submitted by operators and to ensure that the data PHMSA uses is consistent with the data being submitted to FERC, PHMSA is removing Part C of the GTG Annual Report Form. When PHMSA needs to quantify the volume of natural gas transported, we will use the FERC data which covers the largest component of the volume information.

E. Incident Report—Liquefied Natural Gas Facilities (PHMSA F 7100.3)

PHMSA proposes to revise the PHMSA F 7100.3 Incident Report—Liquefied Natural Gas Facilities form (LNG Incident Report Form) to limit location data to the state and modify the "regulated by" data. Background for these topics is as follows:

1. Limit Location Data to the State

In Part B1, the LNG Incident Report Form currently collects the latitude and longitude of the incident. The name of the LNG facility and the state are sufficient to determine the location of the incident. Therefore, PHMSA proposes to remove latitude and longitude from the LNG Incident Report Form.

2. Modify the "Regulated By" data

Currently, Part B1 collects data about whether PHMSA or a state agency inspects the facility for compliance with 49 CFR Part 193. PHMSA proposes to modify this section to match proposed modifications to the PHMSA F 7100.3–1 Annual Report for Calendar Year 20__ Liquefied Natural Gas Facilities Form (Annual Report Form). If the facility operates under a FERC certificate, the facility will be reported as interstate. Otherwise, the facility will be reported as intrastate.

3. Estimated Responses/Burden Hours Revisions

The proposed changes are designed to streamline the LNG Incident Report and allow for greater ease in reporting. While PHMSA believes the change in burden to be minimal, the proposed changes could result in a slight decrease in burden.

F. Annual Report for Calendar Year 20 Liquefied Natural Gas Facilities (PHMSA F 7100.3–1)

PHMSA proposes to revise PHMSA F 7100.3–1–Annual Report for Calendar Year 20 Liquefied Natural Gas Facilities (LNG Annual Report Form) to remove section A5, require entry of interstate or intrastate facility, and eliminate duplicative reporting. Background for these topics is as follows:

1. Remove A5

Section A5 was designed to allow for submitters to identify whether or not they had any changes from the report submitted the previous year. PHMSA has determined that this section provides limited value to all stakeholders and should be removed.

2. Require Entry of Interstate or Intrastate

Currently, the field within Part B for whether a facility is "Interstate or Intrastate" is not required. PHMSA proposes to require this field for every LNG Annual Report Form submission. If the facility operates under a FERC certificate, the facility should be reported as interstate. Otherwise, the facility should be reported as intrastate.

3. Remove Duplicative Reporting

Currently, a summary of reportable incident data is collected in Part C and a summary of safety-related condition data is collected in Part D of the LNG Annual Report Form. PHMSA pipeline safety regulations in Part 191 require LNG operators to submit incident reports and safety-related condition reports when certain criteria are met. Since these reports contain details about each event, the summary data in the LNG Annual Report Form is redundant. Therefore, PHMSA proposes to remove reportable incidents from Part C and safety-related conditions from Part D.

4. Estimated Responses/Burden Hours Revisions

The proposed changes are designed to streamline reporting and eliminate duplicative information. PHMSA recognizes that these changes will not affect all operators completing the LNG Annual Report and considers the change in the overall burden to be minimal. PHMSA acknowledges that the elimination of Section A5 along with the summaries of reportable incident and safety-related condition data in Parts C and D should cause a slight

decrease in burden for affected operators.

II. Summary of Impacted Collection

The following information is provided for this information collection: (1) Title of the information collection; (2) OMB control number; (3) Current expiration date; (4) Type of request; (5) Abstract of the information collection activity; (6) Description of affected public; (7) Estimate of total annual reporting and recordkeeping burden; and (8) Frequency of collection. PHMSA requests comments on the following information collection, including the proposed revisions addressed in this notice:

Title: Incident and Annual Reports for Gas Pipeline and LNG Facility Operators.

OMB Control Number: 2137–0522.

Current Expiration Date: 02/28/2014.

Type of Request: Revision.

Abstract: PHMSA is looking to revise several reporting forms for gas pipeline and LNG facility operators to improve the granularity of the data collected in several areas.

Affected Public: Gas pipeline and LNG facility operators.

Annual Reporting and Recordkeeping Burden:

Total Annual Responses: 12,164.

Total Annual Burden Hours: 96,471.

Frequency of Collection: On occasion.

Comments are invited on:

(a) The need for the proposed collection of information 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 the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

Issued in Washington, DC, on June 21, 2013.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. 2013–15339 Filed 6–26–13; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

June 24, 2013.

The Department of the Treasury will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before July 29, 2013 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: Copies of the submission(s) may be obtained by calling (202) 927–5331, email at *PRA@treasury.gov,* or the entire information collection request maybe found at *www.reginfo.gov.*

Financial Management Service (FMS)

OMB Number: 1510—NEW.

Type of Review: New collection.

Title: Accountable Official Application Form for U.S. Department of Treasury Stored Value Card (SVC) Program.

Form: FMS Form 2888.

Abstract: This form is used to collect information from accountable officials requesting enrollment in the Treasury SVC program in their official capacity, to obtain authorization to initiate debit and credit entries to their bank or credit union accounts to load value on the cards, and to facilitate collection of any delinquent amounts that may become due and owning as a result of the use of the cards.

Affected Public: Individuals or Households.

Estimated Total Burden Hours: 1,250.

OMB Number: 1510—NEW.

Type of Review: New collection.

Title: Application Form for U.S. Department of Treasury Stored Value Card (SVC) Program.

Form: FMS Form 2887.

Abstract: This form is used to collect information from individuals requesting enrollment in the Treasury SVC program to obtain authorization to initiate debit and credit entries to their bank or credit union accounts and to facilitate collection of any delinquent amounts.

Affected Public: Individuals or Households.

Estimated Annual Burden Hours: 10,000.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2013–15432 Filed 6–26–13; 8:45 am]

BILLING CODE 4810–35–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 enhanced oil recovery credit.

DATES: Written comments should be received on or before August 26, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette B. Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Gerald J. Shields, (202) 927–4374, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224 or through the internet at *Gerald.J.Shields@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Enhanced Oil Recovery Credit.

OMB Number: 1545–1292.

Regulation Project Number: PS–97–91 and PS–101–90 (TD 8448).

Abstract: This regulation provides guidance concerning the costs subject to the enhanced oil recovery credit, the circumstances under which the credit is available, and procedures for certifying to the Internal Revenue Service that a

project meets the requirements of section 43(c) of the Internal Revenue Code.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and business or other for-profit organizations.

Estimated Number of Respondents: 20.

Estimated Time per Respondent: 73 hours.

Estimated Total Annual Burden Hours: 1,460.

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: June 19, 2013.

Allan M. Hopkins,

IRS Tax Analyst.

[FR Doc. 2013–15372 Filed 6–26–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning the Affordable Care Act notice of rescission.

DATES: Written comments should be received on or before August 26, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette B. Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Gerald J. Shields, (202) 927–4374, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington DC 20224, or through the internet, at *Gerald.J.Shields@irs.gov*.

Title: Affordable Care Act Notice of Rescission.

OMB Number: 1545–2180.

Regulation Project Number: TD 9491.

Abstract: This document contains interim final regulations implementing the rules for group health plans and health insurance coverage in the group and individual markets under provisions of the Affordable Care Act regarding preexisting condition exclusions, lifetime and annual dollar limits on benefits, rescissions, prohibition on discrimination in favor of highly compensated individuals, and patient protections.

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: 800.

Estimated Total Annual Burden Hours: 25 Hours.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 12, 2013.

Allan M. Hopkins,

Tax Analyst.

[FR Doc. 2013–15361 Filed 6–26–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8938

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 Form

8938, Statement of Foreign Financial Assets.

DATES: Written comments should be received on or before August 26, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette B. Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Gerald J. Shields, (202) 927–4374, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Gerald.J.Shields@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Statement of Foreign Financial Assets.

OMB Number: 1545–2195.

Form Number: Form 8938.

Abstract: The collection of information in Form 8938 will be the means by which taxpayers will comply with self-reporting obligations imposed under section 6038D with respect to foreign financial assets. The IRS will use the information to determine whether to audit this taxpayer or transaction, including whether to impose penalties. The information is also required to begin the running of the statute of limitations under section 6501.

Current Actions: Form 8938 has been completely redesigned.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 350,000.

Estimated Time per Respondent: 4 hours 37 minutes.

Estimated Total Annual Burden Hours: 1,627,500.

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: June 20, 2013.

Allan M. Hopkins,

IRS Tax Analyst.

[FR Doc. 2013–15362 Filed 6–26–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning employee business expenses reporting and withholding on employee business expense reimbursements and allowances.

DATES: Written comments should be received on or before August 26, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette B. Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Gerald J. Shields, (202) 927–4374, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Gerald.J.Shields@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Employee Business Expenses-Reporting and Withholding on Employee Business Expense Reimbursements and Allowances.

OMB Number: 1545–1148.

Regulation Project Number: EE–113–90 (TD 8324).

Abstract: These temporary and final regulations provide rules concerning the taxation of, and reporting and withholding on, payments with respect to employee business expenses under a reimbursement or other expense allowance arrangement. The regulations affect employees who receive payments and payors who make payments under such arrangements.

Current Actions: There is no change to these existing regulations.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, farms, and Federal, State, local or tribal governments.

Estimated Number of Recordkeepers: 1,419,456.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Recordkeeping Hours: 709,728.

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: June 12, 2013.

Allan M. Hopkins,

Tax Analyst.

[FR Doc. 2013–15360 Filed 6–26–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection: Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an optional 10-Year write-off of certain tax preferences.

DATES: Written comments should be received on or before August 26, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette B. Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Gerald J. Shields, (202) 927–4374, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Gerald.J.Shields@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Optional 10-Year Write-off of Certain Tax Preferences.

OMB Number: 1545–1903.

Regulation Project Number: TD 9168.

Abstract: This collection of information is required by the IRS to verify compliance with section 59(e). This information will be used to determine whether the amount of tax has been calculated correctly.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, Businesses and other for-profit organizations.

Estimated Number of Respondents: 10,000.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Hours: 10,000.

The following paragraph applies to all of the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 12, 2013.

Allan M. Hopkins,

Tax Analyst.

[FR Doc. 2013–15359 Filed 6–26–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0571]

Agency Information Collection (NCA Customer Satisfaction Surveys (Headstone/Marker)) Activity Under OMB Review

AGENCY: National Cemetery Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the National Cemetery Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 29, 2013.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*; or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0571" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492, fax (202) 632–7583 or email *crystal.rennie@va.gov*. Please refer to "OMB Control No. 2900–0571."

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for NCA, and IG Customer Satisfaction Surveys.

OMB Control Number: 2900–0571.

Type of Review: Revision of a currently approved collection.

Abstract: Executive Order 12862, Setting Customer Service Standards, requires Federal agencies and Departments to identify and survey its customers to determine the kind and quality of services they want and their level of satisfaction with existing service. VA will use the data collected to maintain ongoing measures of performance and to determine how well customer service standards are met.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register**

Notice with a 60-day comment period soliciting comments on this collection of information was published on April 8, 2013, at pages 21008–21009.

Affected Public: Individuals or households.

Estimated Annual Burden: 23,158.

Estimated Average Burden per Respondent: 5 minutes to 3 hours.

Number of Respondents: 51,650.

Frequency of Response: Annually.

Dated: June 21, 2013.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2013–15374 Filed 6–26–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0616]

Proposed Information Collection (Application for Furnishing Long-Term Care Service to Beneficiaries of Veterans Affairs, and Residential Care Home Program) Activity: Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Health Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 29, 2013.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov;* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0616" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492, fax (202) 632–7583 or email *crystal.rennie@va.gov.* Please refer to "OMB Control No. 2900–0616."

SUPPLEMENTARY INFORMATION:

Title: Residential Care Home Program—Sponsor Application, VA Form 10–2407.

OMB Control Number: 2900–0616.

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 10–2407 is an application used by a residential care facility or home that wished to provide residential home care to Veterans. It serves as the agreement between VA and the residential care home that the home will submit to an initial inspection and comply with requirements for residential care. 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.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 42 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 500.

Dated: June 24, 2013.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2013–15378 Filed 6–26–13; 8:45 am]

BILLING CODE 8320–01–P

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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List June 17, 2013

Public Laws Update Service (PLUS)

PLUS is a recorded announcement of newly enacted public laws.

Note: Effective July 1, 2013, the PLUS recording service will end.

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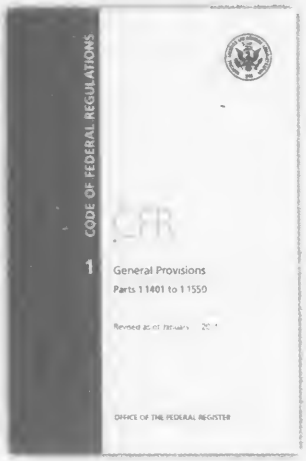

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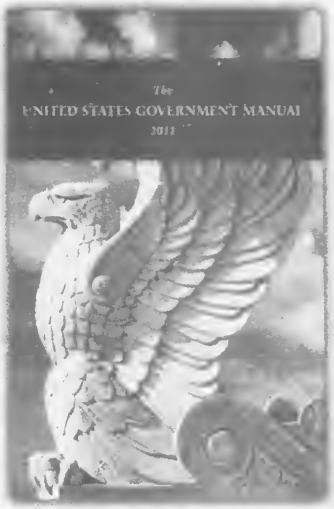

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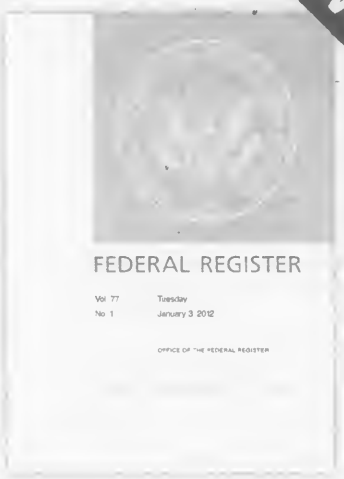

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