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OFFICE OF THE FEDERAL REGISTER

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WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

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2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
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, June 11, 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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Contents

Federal Register

Vol. 78, No. 94

Wednesday, May 15, 2013

Separate Parts In This Issue

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.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

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.

3 CFR

Proclamations:
8977 28709
8978 28711
8979 28713
8980 28715

Administrative Orders:
Memorandums:
Memorandum of May 10, 2013 28717
Notices:
Notice of May 13, 2013 28465

6 CFR

Proposed Rules:
Ch. X 28532

14 CFR

Proposed Rules:
39 28540

15 CFR
902 28523

26 CFR
1 28467

29 CFR
4022 28490

32 CFR
706 28491

33 CFR
100 28492
165 28495

34 CFR

Proposed Rules:
Ch. III 28543

38 CFR

Proposed Rules:
3 28546

40 CFR
52 (3 documents) 28497, 28501, 28503
180 28507

Proposed Rules:
52 (3 documents) 28547, 28550, 28551

42 CFR

Proposed Rules:
447 28551

45 CFR

Proposed Rules:
1172 28569

50 CFR
17 28513
680 28523

Federal Register
Vol. 78, No. 94
Wednesday, May 15, 2013

Presidential Documents

Title 3—

The President

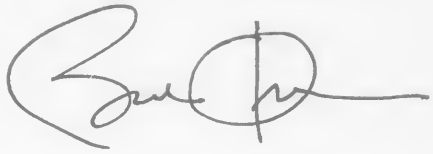
Notice of May 13, 2013

Continuation of the National Emergency With Respect to Yemen

On May 16, 2012, by Executive Order 13611, I declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions and policies of certain members of the Government of Yemen and others that threatened Yemen's peace, security, and stability, including by obstructing the implementation of the agreement of November 23, 2011, between the Government of Yemen and those in opposition to it, which provided for a peaceful transition of power that meets the legitimate demands and aspirations of the Yemeni people for change, and by obstructing the political process in Yemen.

The actions and policies of certain members of the Government of Yemen and others in threatening Yemen's peace, security, and stability continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, the national emergency declared on May 16, 2012, to deal with that threat must continue in effect beyond May 16, 2013. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13611.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
May 13, 2013.

[FR Doc. 2013–11690
Filed 5–14–13; 8:45 am]
Billing code 3295–F3

Rules and Regulations

Federal Register
Vol. 78, No. 94
Wednesday, May 15, 2013

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9619]

RIN 1545–BD84

Regulations Enabling Elections for Certain Transactions Under Section 336(e)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that provide guidance under section 336(e) of the Internal Revenue Code (Code), which authorizes the issuance of regulations under which an election may be made to treat the sale, exchange, or distribution of at least 80 percent of the voting power and value of the stock of a corporation (target) as a sale of all its underlying assets. These regulations provide the terms and conditions for making such an election and the consequences of the election. These regulations affect domestic corporate sellers (seller), S corporation shareholders, and domestic targets.

DATES: *Effective Date:* These regulations are effective on May 15, 2013.

Applicability Date: These regulations apply to any qualified stock disposition for which the disposition date is on or after May 15, 2013.

FOR FURTHER INFORMATION CONTACT: Mark J. Weiss, (202) 622–7930 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under OMB control number 1545–2125. The collection of information in these final regulations is in §§ 1.336–2(h) and 1.336–4(c)(4). This information is required by the IRS to allow certain parties to make a section 336(e) election and for certain shareholders to make a gain recognition election.

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 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 section 6103.

Background

Section 336(e) of the Code authorizes the issuance of regulations under which an election may be made to treat the sale, exchange, or distribution of at least 80 percent of the voting power and value of the stock of a corporation (target) as a sale of all its underlying assets. Section 336(e) was enacted as part of *General Utilities* repeal. Similar to an election under section 338(h)(10) available with respect to certain purchases of target stock, section 336(e) is meant to provide taxpayers relief from a potential multiple taxation of the same economic gain that can result when a transfer of appreciated corporate stock is taxed without providing a corresponding step-up in the basis of the assets of the corporation. See H.R. Conf. Rep. No. 841, 99th Cong., 2d Sess., Vol. II, 198, 204 (1986), 1986–3 CB, Vol. 4, 198– 207.

On August 25, 2008, the IRS and Treasury Department published a notice of proposed rulemaking in the **Federal Register** (REG–143544–04, 2008–42 IRB 947 [73 FR 49965–02]) (the proposed regulations) that, when finalized, would permit certain taxpayers to make an election to treat certain sales, exchanges, and distributions of another corporation's stock as taxable sales of that corporation's assets.

Summary of Proposed Regulations

A. In General

Under the proposed regulations, an election under section 336(e) is available for "qualified stock dispositions" of domestic target stock by domestic corporate sellers (seller). The proposed regulations generally adopt the structure and principles established under section 338(h)(10) and the underlying regulations. For example, the proposed regulations generally incorporate the rules of section 338 governing the allocation of consideration in the resulting deemed sale of the target's assets and the determination of target's basis in its underlying assets resulting from such deemed sale. The proposed regulations alter terms or concepts to reflect principles and factual circumstances relevant to section 336(e).

Unlike an election under section 338(h)(10), which is available only if target stock is acquired by a corporate purchaser, the proposed regulations do not require an acquirer of target stock to be a corporation, or even necessarily a purchaser. Also unlike section 338(h)(10), which generally requires that a single purchasing corporation acquire the stock of a target, the proposed regulations permit the aggregation of all stock of a target that is sold, exchanged, and distributed by a seller to different acquirers for purposes of determining whether there has been a qualified stock disposition of a target.

B. Two Different Models for Deemed Transactions

The proposed regulations provide two different models for the deemed transactions treated as occurring if a section 336(e) election is made. The first model generally follows the same structure used for the deemed transactions resulting from the making of a section 338(h)(10) election (basic model) and is applicable to all qualified stock dispositions (including those consisting of taxable distributions of target stock) other than distributions described in sections 355(d)(2) or 355(e)(2) (section 355(d)(2) and (e)(2) transactions). Under the basic model, target, while owned by the seller (old target), is treated as selling all of its assets to an unrelated person and new target is treated as acquiring all of its assets from an unrelated person at the close of the date on which the threshold amount of target stock is disposed (deemed asset disposition). Old target recognizes the Federal income tax consequences from the deemed asset

disposition before the close of the date on which its stock was disposed. After recognizing the tax consequences of the deemed asset disposition, old target is generally treated as liquidating into the seller. In addition, to the extent that the qualified stock disposition consisted of one or more distributions (rather than sales or exchanges) of the stock of a target (other than in section 355(d)(2) and (e)(2) transactions), the seller is treated as acquiring directly from new target an amount of new target stock equal to the amount of target stock distributed. The tax consequences of the purchaser(s) generally are unaffected by the section 336(e) election.

The second model adopted by the proposed regulations for the deemed transactions resulting from a section 336(e) election applies to section 355(d)(2) and (e)(2) transactions (sale-to-self model). Under the sale-to-self model, old target (the controlled corporation) is deemed to remain in existence; old target is treated as if it sold its assets to an unrelated person and then repurchased those assets. Following the deemed asset disposition, old target (the controlled corporation) is not deemed to liquidate into seller (the distributing corporation). Instead, after old target's deemed repurchase of its own assets, seller is treated as distributing the stock of old target to its shareholders, with seller recognizing no gain or loss. Because no liquidation of old target into seller is deemed to occur, old target will generally retain the tax attributes it would have had if the section 336(e) election had not been made, adjusted for the creation or absorption of attributes resulting from the election.

C. The Disallowed Loss Rule

The proposed regulations contain a rule that disallows the recognition of losses resulting from the deemed asset disposition to the extent the qualified stock disposition consisted of one or more distributions of target stock (disallowed loss rule). The preamble to the proposed regulations explains that the allowance of losses pursuant to a deemed asset disposition may be inconsistent with sections 311(a) and 355(c) because had the target stock been distributed, any loss in the target stock would not have been recognized pursuant to these provisions.

D. Time and Manner of Making a Section 336(e) Election

The time and manner of making a section 336(e) election provided in the proposed regulations also differed from those for making an election under section 338(h)(10). Noting that a joint election may be burdensome in cases with multiple purchasers, the proposed regulations provide that a section 336(e) election is unilaterally made by a seller attaching a statement to its timely filed Federal income tax return for the taxable year that includes the disposition date.

Summary of Comments and Explanation of Provisions

Written comments were received in response to the proposed regulations. A public hearing was not requested and none was held. After consideration of all the comments, the proposed regulations are adopted as amended by this Treasury decision. In general, the final regulations follow the approach of the proposed regulations with some modifications. The more significant comments and modifications are discussed in this section.

A. The Disallowed Loss Rule

The IRS and Treasury Department received several comments that the disallowed loss rule of the proposed regulations was too harsh and frustrated the intent of mitigating multiple levels of tax as envisioned by section 336(e). According to the comments, the result of the disallowed loss rule was that the making of a section 336(e) election in connection with a stock distribution would be largely impractical. One commenter also noted that the rationale for the disallowed loss rule, namely, that asset losses should not be allowed because a loss in target stock would not be recognized under sections 311(a) or 355(c), did not extend to a seller's distribution of target stock under section 336(a). This is because the seller generally would recognize the loss with respect to the target stock in such a case. The comments suggested several alternatives, including that realized losses in the deemed asset disposition should be netted against the amount of realized gains and that to the extent realized losses exceed realized gains, the net loss should be deferred by attaching the net loss to the basis of the assets in target's hands after the deemed asset disposition.

After consideration of the comments, the IRS and Treasury Department have determined that the disallowed loss rule as set forth in the proposed regulations is broader in scope than necessary to serve the purposes of section 336(e). Accordingly, the final regulations modify the rule of the proposed regulations to generally permit target's realized losses in the deemed asset disposition to offset the amount of target's realized gains. Thus, the proposed regulations disallow a net loss of target (that is, losses realized in excess of target's realized gains) recognized on a deemed asset disposition, but only in proportion to the portion of target stock that was disposed of by seller in one or more distributions.

The loss disallowance rule in the proposed regulations only applied to distributions that were taken into account as part of the qualified stock disposition on or before the disposition date. Thus, stock distributions that occurred after 80 percent of target was disposed of were not subject to the loss disallowance rule. The final regulations modify the disallowed loss rule of the proposed regulations to take into account (1) target stock distributed at any time within the 12-month disposition period, not just on or before the disposition date, and (2) target stock distributed within the 12-month disposition period that is not part of the qualified stock disposition, such as stock distributed to a related person. The IRS and Treasury Department believe that limiting disallowed losses to stock distributed on or before the disposition date could lead to manipulation because sellers who would otherwise distribute target stock on the disposition date may delay the distribution for the sole purpose of decreasing the disallowed net loss recognized by target. Further, if stock distributions that are not part of the qualified stock disposition, such as distributions to a related person, were not taken into account by the disallowed loss rule, target would be able to recognize a greater portion of its net loss by distributing stock to a related person than it would recognize if it distributed the stock to an unrelated person, a result that the IRS and Treasury Department believe would be improper. Accordingly, under the disallowed loss rule of the final regulations, if a section 336(e) election is made and any stock of target is distributed during the 12-month disposition period, whether or not as part of the qualified stock disposition, any net loss attributable to such stock distribution is disallowed.

The final regulations do not follow the recommendation of some commenters that any disallowed losses be applied to increase the basis of target's assets after the deemed asset disposition for two reasons. First, as discussed elsewhere in this preamble, Congressional intent in providing for a section 336(e) election was to prevent multiple taxation of gain. Congress was not concerned with the preservation of loss. Second, allowing the losses to be deferred by adding the basis to target's

assets would create administrative difficulties far outweighing the benefits, and disallowing losses rather than deferring losses is consistent with many other provisions within subchapter C. Accordingly, to the extent the disallowed loss rule of the final regulations applies, losses are allowed up to the amount of gains and any excess losses are permanently disallowed.

B. Issues Relating to the Adopted Models

1. Basic Model for Non-Section 355(d)(2) or (e)(2) Transactions

In general, the final regulations retain the rules of the proposed regulations with respect to the deemed transactions under the basic model. One commenter expressed concern that in the case of a distribution of stock as part of a qualified stock disposition that does not consist of section 355(d)(2) or (e)(2) transactions, the step in the basic model in which seller is deemed to purchase from new target the new target stock actually distributed might be combined with old target's deemed sale of its assets to new target resulting in a section 351 transaction with boot, which could lead to unintended consequences. The commenter also questioned what new target is deemed to do with the consideration it is deemed to receive from seller in the deemed stock acquisition. The commenter suggested resolving these issues by having seller be deemed to purchase new target stock from unrelated new target shareholders with cash equal to the fair market value of the distributed stock.

The IRS and Treasury Department agree with the concerns of the commenter. Accordingly, the final regulations modify the proposed regulations by providing that in a distribution of target stock (and also with respect to stock in target that seller retains after the distribution date) seller is deemed to purchase the new target stock that is distributed or retained not from new target but from an unrelated person in a taxable transaction. Seller will not recognize any gain or loss on the deemed distribution of new target stock and purchaser will have a fair market value basis in new target stock received without any possible application of section 351.

2. Sale-to-Self Model for Transactions Described in Section 355(d)(2) or (e)(2)

We received several comments suggesting the removal of the sale-to-self model and the extension of the provisions of § 1.336–2(b)(1), with any necessary adjustments, to section 355(d)(2) or (e)(2) transactions. Commenters stated that the sale-to-self model added unnecessary complexity and that existing law under section 312(h) and § 1.312–10 adequately addresses the concern of having sufficient earnings and profits to allocate to the controlled corporation. One commenter also suggested that to the extent that the sale-to-self model is driven by a desire to have the controlled corporation retain its attributes, a special section 381 rule could be created to reach this result.

Although the IRS and Treasury Department agree with the commenters who pointed out that even if target was treated as a new corporation after the deemed sale of its assets, the rules of section 312(h) and § 1.312–10 would typically result in target having some level of earnings and profits after the distribution of its stock, the IRS and Treasury Department still believe that the sale-to-self model should be retained. While the deemed transactions resulting from the making of section 336(e) elections with respect to taxable sales, exchanges, or distributions of target stock could actually be undertaken in a transaction involving the sale, exchange, or distribution of the assets of target, a transaction that included an actual sale or distribution of all the assets of target could not qualify under section 355. Because a deemed sale of assets to a new target cannot actually be undertaken in section 355(d)(2) or (e)(2) transactions, and the IRS and Treasury Department believe that the predominant feature of the section 336(e) election with respect to a section 355(d)(2) or (e)(2) transaction is the section 355 transaction, the regulations adopt the sale-to-self model and treat the transaction as the distribution of old target stock.

Additionally, the IRS and Treasury Department do not believe that the sale-to-self model adds significant complexity to the regulation; in fact, it may reduce complexity. As the commenters pointed out, if the IRS and Treasury Department believe that adjustments to the basic model would have to be made to account for a section 355(d)(2) or (e)(2) transaction, those adjustments, such as satisfying the five-year active trade or business requirement and maintaining all section 381 attributes with target (not solely earnings and profits), would require that exceptions and special rules be added to the basic model. These exceptions and special rules would result in a regulation that we believe would be more complex than the sale-to-self model. Furthermore, because it is likely that only an insubstantial number of section 336(e) elections will be the result of transactions actually described in section 355(d)(2) or (e)(2) (although a substantial number of protective elections may be made), we believe that putting the exceptions and special rules into the provisions of § 1.336–2(b)(1) for this limited number of cases would create complexity or confusion for the majority of taxpayers engaging in transactions that are not described in section 355(d)(2) or (e)(2). By separating the regulation into two separate models, taxpayers whose transaction does not involve a section 355(d)(2) or (e)(2) transaction may apply the regulation's provisions without having to concern themselves with provisions that do not apply to their transaction.

Commenters have suggested that if the regulations retain the sale-to-self model, the regulations should address the wash sale rules of section 1091 and the anti-churning rules of section 197(f)(9). For example, old target's deemed disposition of stock or securities and subsequent repurchase of the same stock or securities could be treated as a wash sale, which could then be subject to loss disallowance under section 1091(a) as well as the disallowed loss rule of these regulations. Under the section 336(e) regulations, the basis of the stock or security deemed purchased by target should be its fair market value, while under section 1091(d), the basis would be the basis of the stock or security deemed transferred plus or minus any difference in the sale and acquisition price of the stock or security.

The IRS and Treasury Department do not believe that adoption of the sale-to-self model should cause sections 197(f)(9) or 1091 to apply to a section 336(e) election with respect to a section 355(d)(2) or (e)(2) transaction. Because the deemed transactions resulting from the making of a section 336(e) election could not actually be undertaken in the context of a section 355(d)(2) or (e)(2) transaction, we do not believe that the regulations should cause a section 336(e) election in the context of a section 355(d)(2) or (e)(2) transaction to result in the application of sections 197(f)(9) or 1091 to the extent that a section 336(e) election outside the context of a section 355(d)(2) or (e)(2) transaction would not result in the application of such sections. Accordingly, the final regulations provide that for purposes of section 197(f)(9), section 1091, and any other provision designated in the Internal Revenue Bulletin by the IRS, old target, in its capacity as seller of assets in the deemed asset disposition, is treated as a separate and distinct taxpayer from, and

unrelated to, old target in its capacity as acquirer of assets in the subsequent deemed purchase and for subsequent periods. For example, if one of target's assets immediately before old target's deemed asset disposition was stock or securities within the meaning of section 1091, old target, as seller of the stock or securities in the deemed asset disposition, is not treated for purposes of section 1091 as the same taxpayer that acquires substantially identical stock or securities in the deemed purchase of assets or that actually acquires substantially identical stock or securities in periods after the deemed asset disposition. Therefore, section 1091 will not disallow any of old target's loss on the deemed sale of the stock or securities as a result of either old target's deemed purchase of the same stock or securities or an actual purchase of substantially identical stock or securities within the 30-day period after the disposition date.

C. Time and Manner for Making the Election

Commenters requested that the unilateral seller election of the proposed regulations be made into a joint election between seller and target (acting in a capacity for the purchasers). The commenters expressed concern that a unilateral election by seller could result in unwanted results or unfair surprise to target or purchaser. The proposed regulations were premised on the view that a unilateral election is supportable because in sales or exchanges, purchasers should be able to protect their interests in any purchase contract; in distributions, distributees' interests should generally be protected because of the distributing corporation's fiduciary responsibilities to its shareholders. However, in response to the comments, the final regulations modify the rule of the proposed regulations. Under the final regulations, in order to make a section 336(e) election, seller(s), or in the case of an S corporation target, all of the S corporation shareholders (see section E of this preamble concerning the availability of a section 336(e) election for an S corporation target), and target must enter into a written, binding agreement to make a section 336(e) election and a section 336(e) election statement must be attached to the relevant return. If seller(s) and target are members of a consolidated group, the election statement is filed on a timely filed consolidated return and the common parent of the consolidated group must provide a copy of the section 336(e) election statement to target on or before the due date (including extensions) of the consolidated group's consolidated Federal income tax return. If target is an S corporation, the election statement is filed on the S corporation's timely filed return. If seller and target are members of an affiliated group but do not join in the filing of a consolidated return, the election statement is filed with both seller's and target's timely filed returns. By (1) requiring seller(s), or all the S corporation shareholders, and target to enter into a written, binding agreement, (2) in the case of a consolidated group, requiring the common parent of the consolidated group to provide a copy of the election statement to target, and (3) in the case in which seller and target are members of an affiliated group but do not join in the filing of a consolidated return, requiring both seller and target to file the election statement on their respective returns, the IRS and Treasury Department believe that the final regulations significantly reduce the potential for unwanted results or unfair surprise.

Several commenters also requested changing the due date of the election from the due date of the seller's return to the 15th day of the ninth month after the disposition date, the same time for making a section 338 election. The commenters were concerned that the due date in the proposed regulations could result in many instances in which target's tax return would be due before the due date for the election (because target's taxable year will close upon its deemed dissolution), and therefore target would be required to file its return without knowing whether a section 336(e) election was made. After consideration of these comments, the final regulations retain the rule that the election must be made by the due date of the relevant tax return. The IRS and Treasury Department believe that a due date of the 15th day of the ninth month after the disposition date will add administrative burden to both taxpayers and the IRS. Such due date would generally require that the election be made prior to the filing of the tax return, rather than on a tax return. It is administratively beneficial for the IRS to have the election made with the filing of a return rather than in some manner outside of the return. Additionally, an accelerated due date would give taxpayers less time in which to decide whether an election is beneficial or detrimental. The experience of the IRS in administering section 338 has shown that some taxpayers miss the due date for making a section 338 election because they wrongly believe that the election is due with the income tax return of the taxpayer. Further, except with respect to the election statement filed by seller if seller and target are members of the same affiliated group but do not join in the filing of a consolidated return, the due date for filing the election statement now coincides with the due date of the return that includes the deemed disposition tax consequences. Accordingly, the final regulations do not adopt this suggestion.

Because the general requirements for who must file a section 336(e) election statement have been modified from the proposed regulations, these final regulations provide detailed requirements to assist taxpayers in making a section 336(e) election for an eligible subsidiary of target (target subsidiary). See § 1.336–2(h)(4) and (5). Some of these requirements are different than those for making a section 336(e) election for target subsidiaries under the proposed regulations, which treated the seller of the directly disposed of target (ultimate seller) as the seller of the target subsidiary for purposes of the additional election statement to be attached to the ultimate seller's return. Some of these requirements also differ from those for making a section 338 election for target subsidiaries on Form 8023, which treats the purchasing corporation(s) of the directly purchased target as the purchasing corporation(s) of any target subsidiary for purposes of completing and signing a Form 8023 for a target subsidiary that is filed outside of any return. For example, if seller and target are members of the seller consolidated group but target subsidiary is not, a section 336(e) election for target subsidiary now requires that target subsidiary be a party to either the agreement entered into by seller and target, or that target and target subsidiary enter into a separate agreement to make such election. Because target subsidiary is not a member of the same consolidated group as target, the section 336(e) election for target subsidiary requires that a section 336(e) election statement be attached to both seller's timely filed consolidated Federal income tax return and the timely filed Federal income tax return of the target subsidiary.

The IRS intends to modify Form 8883, which is currently entitled "Asset Allocation Statement Under Section 338," or create a new form, to include an election under section 336(e). However, until Form 8883 is modified or a new form is created, old target and new target should file Form 8883 to report the results of the deemed asset disposition, making appropriate adjustments as necessary to account for a section 336(e) election. Examples of

appropriate adjustments include treating a reference to Form 8023, a qualified stock purchase, the acquisition date, the 12-month acquisition period, or the aggregate deemed sales price on Form 8883 or the instructions thereto as a reference to the section 336(e) election statement, a qualified stock disposition, the disposition date, the 12-month disposition period, or the aggregate deemed asset disposition price, respectively. In the case of a section 336(e) election as the result of a transaction described in section 355(d)(2) or (e)(2), old target should file two Forms 8883 (or successor forms), one in its capacity as the seller of assets in the deemed asset disposition and one in its capacity as the purchaser of assets in the deemed purchase of assets under the sale-to-self model.

D. Intragroup Sales, Exchanges, or Distributions Prior to External Sales, Exchanges, or Distributions and Section 355(f)

The proposed regulations requested comments concerning an intragroup sale, exchange, or distribution (an "intragroup transaction") prior to an external sale, exchange, or distribution, and also concerning the application of section 355(f).

Generally, if the stock of a corporation is sold or distributed within an affiliated group and then is transferred outside the affiliated group, a section 336(e) election is not available for the intragroup transaction because the buyer and seller in the intragroup transaction are related persons after the disposition of target outside the affiliated group. While a section 336(e) election may be available for the external transfer, the election could result in the affiliated group immediately recognizing multiple levels of gain, both on target's stock from the intragroup transaction and on target's assets from the deemed asset disposition. Section 1.1502–13(f)(5)(ii)(C) provides an election (a "§ 1.1502–13(f)(5) election") in the case of section 338(h)(10) and comparable transactions. A § 1.1502–13(f)(5) election allows taxpayers to treat the deemed liquidation as the result of a section 338(h)(10) election or an actual liquidation as a taxable liquidation in order to provide the consolidated group with a stock loss to offset some, if not all, of the intragroup seller's stock gain from the intragroup transaction. One commenter asked for either a clarification that a § 1.1502–13(f)(5) election is available for section 336(e) elections or that a similar election be provided in these regulations. Another commenter believed that the problem of multiple levels of tax could be solved by permitting a section 336(e) election on the intragroup transaction. With respect to the latter comment, the IRS and Treasury Department do not believe that allowing a section 336(e) election on the intragroup transaction is practical or administrable. Allowing a section 336(e) election would require special rules for related persons (see discussion of related party issues in section H of this preamble); further, these transactions could involve a significant time lapse between the intragroup transaction and external disposition. However, the IRS and Treasury Department agree with the first commenter that a taxpayer should be able to make a § 1.1502–13(f)(5) election to treat the deemed liquidation of target into seller as a result of a section 336(e) election as a taxable liquidation. Although we believe that under the general rule of § 1.336–1(a) of the proposed regulations, a § 1.1502–13(f)(5) election would be available for a section 336(e) transaction without any modification in the final regulations, to remove any doubt the final regulations modify § 1.1502–13(f)(5)(ii)(C) to clearly provide that the election is available for a section 336(e) election.

The IRS and Treasury Department also acknowledge that an external distribution under section 355(d)(2) or (e)(2) that is preceded by an intragroup transaction raises the same concerns as those described in the preceding paragraph, but a § 1.1502–13(f)(5) election would not provide relief because in a section 355(d)(2) or (e)(2) transaction there is no deemed liquidation of target. The IRS and Treasury Department believe that the rationale behind § 1.1502–13(f)(5) to prevent multiple levels of taxation exists just as much with a section 336(e) election as a result of a section 355(d)(2) or (e)(2) transaction as with a non-section 355(d)(2) or (e)(2) transaction. Therefore, the final regulations provide that in the case of a section 355(d)(2) or (e)(2) transaction that is preceded by an intragroup transaction, for the limited purpose of a § 1.1502–13(f)(5) election, immediately after the deemed asset disposition of target's assets, target is deemed to liquidate into seller, thus providing seller with a stock loss that can offset some or all of the group's intercompany gain with respect to the intragroup transfer of target stock.

E. Elections for S Corporations

The proposed regulations do not provide for a section 336(e) election with respect to the sale of stock of an S corporation. Commenters asked that, just as a corporation that acquires stock of an S corporation in a qualified stock purchase may make a section 338(h)(10) election, the ability to make a section 336(e) election be extended to S corporation targets. Commenters noted that the IRS and Treasury extended the application of section 338(h)(10) to qualified stock purchases of S corporations and that Congress intended that "under regulations, principles similar to those of section 338(h)(10) may be applied to taxable sales or distributions of controlled corporation stock." See H.R. Conf. Rep. No. 841, 99th Cong., 2d Sess., Vol. II, 198, 204 (1986) [1986–3 CB, Vol. 4, 198, 204].

The IRS and Treasury Department agree with the commenters that the principles of the regulations implementing section 338(h)(10) should apply to the regulations implementing section 336(e) elections. Accordingly, these final regulations permit a section 336(e) election to be made for S corporation targets and provide additional and special rules to allow section 336(e) elections to be made with respect to S corporation targets.

If a section 338(h)(10) election is made with respect to an S corporation target, all of the S corporation shareholders, including those who do not sell their S corporation target stock, must consent to the election. With respect to a section 336(e) election, the final regulations provide the same requirement for purposes of making a section 336(e) election. While S corporation shareholders consent to a section 338(h)(10) election by signing Form 8023, to make a section 336(e) election, the S corporation shareholders do not file a section 336(e) election statement. Instead, consent to make a section 336(e) election is established by all the S corporation shareholders, including those who do not dispose of their stock in the transaction, and target entering into a written, binding agreement to make the election, on or before the due date (including extensions) of the S corporation target's income tax return. The section 336(e) election statement for an S corporation target is filed with the income tax return of the S corporation target.

If a section 336(e) election is made for an S corporation target, old target's S election continues in effect through the close of the disposition date (including the time of the deemed asset disposition and the deemed liquidation) at which time old target's S election terminates, and old target ceases to exist. If new target qualifies as a small business corporation within the meaning of section 1361(b) and wants to be an S corporation, a new election for new target under section 1362(a) must be made.

F. Determination of AGUB and ADADP

A commenter requested that the provisions in the proposed regulations for determining the Aggregate Deemed Asset Disposition Price (ADADP) and Adjusted Grossed-Up Basis (AGUB) be modified by grossing up the selling costs among all stock of target in order to determine ADADP and by grossing up the acquisition costs among all stock of target in order to determine AGUB. The commenter also requested rules that would disregard preferred stock in determining the percentage of stock disposed of in the qualified stock disposition, and then add back the value of the preferred stock in determining the grossed-up amount realized.

With regard to grossing up the selling costs and acquisition costs over all target stock, this issue was specifically addressed in the preamble to the proposed section 338 regulations in 1999 ("Grossing-up the selling shareholders' selling costs or the purchasing corporation's acquisition costs would result in costs not actually incurred reducing old target's amount realized for the assets or increasing new target's cost basis in the assets. . . . [T]here is no evidence that the purchasing corporation's costs to acquire an amount of target stock sufficient for there to be a qualified stock purchase would increase proportionately if it acquired all of the target stock . . ."). See REG–107069–97, 1999–2 CB 346, 353. Accordingly, the final regulations retain the rule of the proposed regulations.

With regard to the preferred stock issue, the determination of grossed-up basis in section 338 is specifically provided for in the Code, and Congress included preferred stock in determining the percentage of stock attributable to recently purchased stock. The regulations under section 338 apply the same rule in determining grossed-up amount realized. The IRS and the Treasury Department believe that it is appropriate to use the same computation for purposes of a section 336(e) election. Accordingly, the final regulations retain the rule of the proposed regulations.

G. Gain Recognition Elections

Under the proposed regulations, a holder of nonrecently disposed stock may make a gain recognition election, similar to the gain recognition election under section 338, which treats nonrecently disposed stock as being sold as of the disposition date. The gain recognition election is mandatory if a purchaser owns (after the application of the rules of section 318(a), other than section 318(a)(4)), 80-percent or more of the voting power or value of target stock. Once made, a gain recognition election is irrevocable. The proposed regulations requested comments on whether the rules regarding gain recognition elections in the section 336(e) regulations are appropriate and whether the gain recognition election rules in regulations promulgated under section 338 should continue to apply.

Only one comment was received on this topic. The commenter was not sure why rules relating to gain recognition elections exist and believed they should be eliminated in both section 338(h)(10) and section 336(e). However, if this decision was not made, the election should be preserved for consistency in both sections. After consideration of this comment and further internal consideration, the IRS and Treasury Department have determined that the final regulations should retain the rule of the proposed regulations.

H. Related Party Rule

The proposed regulations provide that a transaction is not a disposition (and therefore is ineligible to count towards a qualified stock disposition) if target stock is sold, exchanged, or distributed to a related person. The proposed regulations, like the section 338 regulations, treat persons as related if stock in a corporation owned by one of the persons would be attributed to the other person under section 318(a), other than section 318(a)(4). Comments were requested regarding dispositions to related persons, including special rules needed to prevent the use of net operating losses to offset liquidation gains, manipulation of earnings and profits, and changes of accounting methods.

The IRS and Treasury Department received a wide range of comments, most of which believed some type of prohibition against section 336(e) elections in the case of related party transactions should be maintained. However, the commenters also stated that they believe that the definition of related person in the proposed regulations is too restrictive and should deviate from the section 338 definition. Commenters stated that unlike section 338, there is no statutory definition of the term purchase, and the decision to import the section 338 definition restricts the ability of a section 336(e) election to mitigate against multiple levels of tax. Commenters point to the fact that the legislative history does not prohibit related party transactions, but simply states that special rules may be needed to police certain situations (for example, rules prohibiting net operating loss refreshing, avoiding separate return limitation year rules, and triggering built-in gains to offset net operating losses otherwise limited by section 382). Suggestions made to modify the related party definition included (a) use of the existing section 338(h)(3)(A)(iii) definition, but limiting upstream and downstream partnership attribution to partners owning a specified percentage of the partnership and then only if the partnership bears some economic relationship to the transaction; (b) defining related persons by reference to whether the transaction that would be deemed to occur constitutes a nondivisive D reorganization or certain types of triangular C reorganizations using section 304(c) control; (c) defining related persons using section 267 principles; or (d) implementing some type of anti-abuse rule.

The IRS and Treasury Department reviewed the comments received and continue to have concerns about the administrability and complexity of rules that would be needed to permit related party transactions. However, the IRS and Treasury Department do agree that the attribution rules with respect to partnerships are more inclusive than is necessary for the purpose of these regulations. Because the attribution rules in section 318(a) with respect to partnerships do not have a minimum ownership threshold, a situation in which one partner holds a very small ownership in two different partnerships that own purchaser and seller, respectively, could, under the proposed regulations, prevent the making of a section 336(e) election on the sale of the stock of target to purchaser. Although some of the same concerns exist with respect to a section 338(h)(10) election, in such case, the statute clearly prohibits a section 338(h)(10) election. With respect to a section 336(e) election, there is no statutory prohibition, and the IRS and Treasury Department agree with the comments received that deemed asset disposition treatment should not be prohibited if cross ownership is minimal. While each of the suggested approaches for modifying the attribution rules have merit, the IRS and Treasury Department believe that the best manner for addressing the commenters' concerns is to modify the definition of related persons as pertaining to partnerships by providing that, solely for purposes of determining whether purchaser and seller are related for purposes of section 336(e), the attribution rules of sections 318(a)(2)(A) and 318(a)(3)(A) will not apply to attribute stock ownership from a partnership to a partner, or from a

partner to a partnership if such partner owns, directly or indirectly, less than five percent of the value of the partnership. A five-percent threshold is within the range suggested by comments for limiting upstream and downstream attribution under section 318(a) between partners and partnerships, and is consistent with the five-percent threshold of constructive ownership rules under sections 267(e)(3) and 1562(e)(2) relevant to partners and partnerships. The IRS and Treasury Department will continue to study whether related party transactions should qualify for a section 336(e) election.

I. Scope of Regulations

The proposed regulations look to and build upon section 338(h)(10) principles and guidelines that address taxable sales and exchanges of target stock. The proposed regulations expanded the section 338(h)(10) model to include fully taxable distributions and section 355(d)(2) and (e)(2) distributions. All of these transactions involve a basic taxable event relating to target's stock that is disregarded and in its place a sale of target's assets takes place.

Commenters asked the IRS and Treasury Department to extend a section 336(e) election to transactions in which the corporate level of tax is duplicated by other transactions, for example section 351 exchanges or certain tax-free reorganizations, so that the section 336(e) election can be used to turn two potential levels of tax into one. Commenters cited language from the legislative history to section 336(e), which discusses a section 336(e) election in both the context of *General Utilities* repeal and the desire to avoid multiple levels of corporate tax. "This provision offers taxpayers relief from a potential multiple taxation at the corporate level of the same economic gain, which may result when a transfer of appreciated corporate stock is taxed without providing a corresponding step-up in basis of the assets of the corporation." H.R. Conf. Rep. No. 841, 99th Cong., 2d Sess., Vol. II, 198, 204 (1986) [1986–3 CB, Vol. 4, 198, 204].

The IRS and Treasury Department believe that the commenters have raised some valid concerns and have considered whether the scope of the regulations should be broadened to include certain non-taxable transactions and if so, how the regulations would address those transactions. The issues involved are very complex. The IRS and Treasury Department believe that addressing these concerns in these final regulations would significantly delay the finalization of these regulations, thus preventing taxpayers whose transactions are within the scope of the proposed regulations from making a section 336(e) election until the rules and regulations, if any, for non-taxable transactions are also promulgated. Such delay would not be in the best interests of taxpayers as a whole. Accordingly, these final regulations do not permit an election to be made in non-taxable transfers of target stock. However, the IRS and Treasury Department will continue to study this issue and may address the issue in future guidance. We welcome any comments concerning this issue, including recommendations not just on the scope of the regulations, but on specific means and models for implementing such suggestions.

J. International Provisions

1. Application to Foreign Targets

The proposed regulations do not apply to transactions in which either seller or target is a foreign corporation. Comments were requested regarding how the proposed regulations should be modified to take into account the policies of international tax provisions if the proposed regulations were extended to apply to foreign sellers and/or foreign targets. The IRS and the Treasury Department received comments in response to this request. For reasons similar to those discussed concerning extending the scope of these regulations to non-taxable transactions, these final regulations retain the requirements in the proposed regulations that seller and target must be domestic corporations. However, the IRS and the Treasury Department will continue to study the application of section 336(e) to transactions in which either seller or target is a foreign corporation and may consider expanding the scope of the regulations to address these transactions in future guidance.

2. Allocation of Foreign Taxes Paid

The proposed regulations provide that if a section 336(e) election is made and target's taxable year under foreign law (if any) does not close at the end of the disposition date, foreign income taxes paid by new target attributable to the foreign taxable income earned by target during such foreign taxable year are allocated to old target and new target under the principles of § 1.1502–76(b). The proposed rule is consistent with a similar rule in § 1.338–9(d) for allocating foreign tax paid by a target that is acquired in a transaction that is treated as an asset acquisition pursuant to an election under section 338 if the foreign taxable year of target does not close at the end of the acquisition date. In addition, regulations under section 901, which were published on February 14, 2012, provide foreign tax allocation rules, consistent with § 1.338–9(d), for certain changes in ownership of a partnership or disregarded entity during the entity's foreign taxable year. See § 1.901–2(f)(4). The final regulations at § 1.336–2(g)(3)(ii) reflect modifications made to achieve consistency with § 1.901–2(f)(4). The regulations also provide that if target holds an interest in a disregarded entity or partnership, the rules of § 1.901–2(f)(4) apply with respect to foreign tax imposed at the entity level on the income of such entities. The IRS and Treasury Department intend to issue future guidance that will make similar modifications to § 1.338–9(d).

Section 212 of the legislation commonly referred to as the Education Jobs and Medicaid Assistance Act of 2010, enacted on August 10, 2010 (Pub. L. 111–226), added section 901(m) to the Code. Section 901(m)(1) provides, in part, that in the case of a covered asset acquisition, the disqualified portion of any foreign income taxes determined with respect to the income or gain attributable to a relevant foreign asset shall not be taken into account in determining the foreign tax credit allowed under section 901(a). Section 901(m)(2)(B) defines a covered asset acquisition to include any transaction that is treated as an acquisition of assets for U.S. income tax purposes and as the acquisition of stock of a corporation (or is disregarded) for purposes of a foreign income tax. Because a section 336(e) election for target is treated as an acquisition of assets for U.S. income tax purposes, and is treated as the acquisition of stock of a corporation (or is disregarded in the case of tiered section 336(e) elections) for foreign tax purposes, a section 336(e) election for a target corporation is a covered asset acquisition. See Staff of the Joint Committee on Taxation, Technical Explanation of the Revenue Provisions of the Senate Amendment to the House Amendment to the Senate Amendment to H.R. 1586, Scheduled for Consideration by the House of Representatives on August 10, 2010, at 13, footnote 55 (August 10, 2010). Accordingly, the final regulations contain a cross-reference to the rules under section 901(m), which, for example, could apply if target has foreign branch operations.

K. Retained Stock

The proposed regulations provide that if seller retains any stock in target after the 12-month disposition period, seller

is treated as purchasing the stock so retained on the day after the disposition date. The proposed regulations provide the holding period and purchase price (and thus the basis) of the retained stock. The regulations under § 1.338(h)(10)–1 provide a similar rule concerning retained stock, with the exception that the § 1.338(h)(10)–1 rule only requires that the stock be retained after the acquisition date. Under the proposed regulations, if seller sells, exchanges, or distributes less than all of its stock prior to the disposition date, but sells, exchanges, or distributes additional stock after the disposition date but before the end of the 12-month disposition period, the regulations are silent as to holding period and purchase price (and thus the basis) of such stock. If the later transaction is part of the qualified stock disposition, the basis and holding period may not be relevant, because no gain or loss is recognized on that transaction. However, if the stock is transferred in a transaction not part of the qualified stock disposition, such as a sale to a related person, the basis and holding period will be relevant. After considering this matter, the IRS and Treasury Department have determined that the rule in the § 1.338(h)(10)–1 regulations, providing that stock is retained if seller owns the stock after the acquisition date, should be adopted by the regulations under section 336(e). Accordingly, the final regulations modify the rule of the proposed regulations, so that stock is retained if owned by seller after the disposition date.

L. Consistency Rules

The proposed regulations generally follow the structure and policies of section 338(h)(10), including the application of the consistency rules of § 1.338–8. In general, § 1.338–8 provides that if (1) a purchasing corporation (or an affiliate) acquires an asset meeting certain requirements from target (or a subsidiary of target) in a sale during the target consistency period, (2) gain from the sale is reflected in the basis of target stock as of the target acquisition date, and (3) the purchasing corporation acquires stock of target in a qualified stock purchase (but does not make a section 338 election), then the purchasing corporation is required to take a carryover basis in the acquired asset.

Commenters have asked how the consistency rules apply to qualified stock dispositions. Commenters expressed concern that although § 1.338–8(b)(1)(iii) requires that the same corporate purchaser (or an affiliate) acquire both stock of target and an asset of target (or a subsidiary of target), because, unlike section 338, section 336(e) does not require a single corporate purchaser of 80 percent of the stock of target, the consistency rules could apply to any purchase of an asset of target (or a subsidiary of target) if there was also a qualified stock disposition of target, regardless of whether the purchaser of the asset was also the purchaser of target stock. That is, the regulations would be unnecessarily broad. Alternatively, the regulations could be viewed as too narrow because the consistency rules of § 1.338–8, by their terms, only apply to corporate purchasers.

The IRS and Treasury Department agree with the commenters' concerns about the potential breadth of the consistency rules as applied to section 336(e). We do not believe that the purposes of the consistency rules mandate a carryover basis for an asset unless the same person (or a related person) acquires both the asset of the target (or subsidiary of target) and more than a minimal amount of the stock of target. In addition, it would be inappropriate to limit the consistency rules for purposes of section 336(e) to corporate purchasers. Accordingly, the final regulations provide that the consistency rules apply to an asset only if the asset is owned, immediately after its acquisition and on the disposition date, by a person (or by a related person to such a person) that acquires five percent or more, by value, of the stock of target in a qualified stock disposition.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. Further, it is hereby certified that these final regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that these regulations do not have a substantial economic impact because they merely provide for an election in the context of certain sales, exchanges, and distributions of stock of corporations. The collections of information may affect small businesses if the stock of a corporation that is a small entity is disposed of in a qualified stock disposition. The regulations permit an election to be filed in order to treat a stock sale as an asset sale, and impose the same type of requirements on small businesses as section 338(h)(10). The professional skills that would be necessary to make the election would be the same as those required to prepare a return for the small business. Accordingly, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, these final regulations, as well as the proposed regulations preceding these final regulations, were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business, and no comments were received.

Drafting Information

The principal author of these regulations is Mark J. Weiss of the Office of Associate Chief Counsel (Corporate). Other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding entries in numerical order to read in part as follows:

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

Section 1.336–1 is also issued under 26 U.S.C. 336. * * *

Section 1.336–2 is also issued under 26 U.S.C. 336. * * *

Section 1.336–3 is also issued under 26 U.S.C. 336. * * *

Section 1.336–4 is also issued under 26 U.S.C. 336. * * *

Section 1.336–5 is also issued under 26 U.S.C. 336. * * *

■ **Par. 2.** Sections 1.336–0 through 1.336–5 are added to read as follows:

§ 1.336–0 Table of contents.

This section lists captions contained in §§ 1.336–1, 1.336–2, 1.336–3, 1.336–4, and 1.336–5.

§ 1.336–1 General principles, nomenclature, and definitions for a section 336(e) election.

(a) Overview.
(1) In general.
(2) Consistency rules.
(b) Definitions.
(1) Seller.
(2) Purchaser.
(3) Target; S corporation target; old target; new target.
(4) S corporation shareholders.
(5) Disposed of; disposition.

§ 1.336–1 General principles, nomenclature, and definitions for a section 336(e) election.

(a) *Overview*—(1) *In general.* Section 336(e) authorizes the promulgation of regulations under which, in certain circumstances, a sale, exchange, or distribution of the stock of a corporation may be treated as an asset sale. This section and §§ 1.336–2 through 1.336–5 provide the rules for and consequences of making such election. This section provides the definitions and nomenclature. Generally, except to the extent inconsistent with section 336(e), the results of section 336(e) should coincide with those of section 338(h)(10). Accordingly, to the extent not inconsistent with section 336(e) or these regulations, the principles of section 338 and the regulations under section 338 apply for purposes of these regulations. For example, § 1.338(h)(10)–1(d)(8), concerning the availability of the section 453 installment method, may apply with respect to section 336(e).

(2) *Consistency rules.* In general, the principles of § 1.338–8, concerning asset and stock consistency, apply with respect to section 336(e). However, for this purpose, the application of § 1.338–8(b)(1) is modified such that § 1.338–8(b)(1)(iii) applies to an asset if the asset is owned, immediately after its acquisition and on the disposition date, by a person or by a related person (as defined in § 1.336–1(b)(12)) to a person that acquires, by sale, exchange, distribution, or any combination thereof, five percent or more, by value, of the stock of target in the qualified stock disposition.

(b) *Definitions.* For purposes of §§ 1.336–1 through 1.336–5 (except as otherwise provided):

(1) *Seller.* The term *seller* means any domestic corporation that makes a qualified stock disposition of stock of another corporation. Seller includes both a transferor and a distributor of target stock. Generally, all members of a consolidated group that dispose of target stock are treated as a single seller. See § 1.336–2(g)(2).

(2) *Purchaser.* The term *purchaser* means one or more persons that acquire or receive the stock of another corporation in a qualified stock disposition. A purchaser includes both a transferee and a distributee of target stock.

(3) *Target: S corporation target; old target; new target.* The term *target* means any domestic corporation the stock of which is sold, exchanged, or distributed in a qualified stock disposition. An *S corporation target* is a target that is an S corporation immediately before the disposition date; any other target is a *non-S corporation target*. Except as the context otherwise requires, a reference to target includes a reference to an S corporation target. In the case of a transaction not described in section 355(d)(2) or (e)(2), *old target* refers to target for periods ending on or before the close of target's disposition date and *new target* refers to target for subsequent periods. In the case of a transaction described in section 355(d)(2) or (e)(2), *old target* refers to target for periods ending on or before the disposition date as well as for subsequent periods.

(4) *S corporation shareholders. S corporation shareholders* are the S corporation target's shareholders. Unless otherwise provided, a reference to S corporation shareholders refers both to S corporation shareholders who dispose of and those who do not dispose of their S corporation target stock.

(5) *Disposed of; disposition*—(i) *In general.* The term *disposed of* refers to a transfer of stock in a disposition. The term *disposition* means any sale, exchange, or distribution of stock, but only if—

(A) The basis of the stock in the hands of the purchaser is not determined in whole or in part by reference to the adjusted basis of such stock in the hands of the person from whom the stock is acquired or under section 1014(a) (relating to property acquired from a decedent);

(B) Except as provided in paragraph (b)(5)(ii) of this section, the stock is not sold, exchanged, or distributed in a transaction to which section 351, 354, 355, or 356 applies and is not sold, exchanged, or distributed in any transaction described in regulations in which the transferor does not recognize the entire amount of the gain or loss realized in the transaction; and

(C) The stock is not sold, exchanged, or distributed to a related person.

(ii) *Exception for disposition of stock in certain section 355 transactions.* Notwithstanding paragraph (b)(5)(i)(B) of this section, a distribution of stock to a person who is not a related person in a transaction in which the full amount of stock gain would be recognized pursuant to section 355(d)(2) or (e)(2) shall be considered a disposition.

(iii) *Transactions with related persons.* In determining whether stock is sold, exchanged, or distributed to a related person, the principles of section 338(h)(3)(C) and § 1.338–3(b)(3) shall apply.

(iv) *No consideration paid.* Stock in target may be considered disposed of if, under general principles of tax law, seller is considered to sell, exchange, or distribute stock of target notwithstanding that no amount may be paid for (or allocated to) the stock.

(v) *Disposed of stock reacquired by certain persons.* Stock disposed of by seller to another person under this section that is reacquired by seller or a member of seller's consolidated group during the 12-month disposition period shall not be considered as disposed of. Similarly, stock disposed of by an S corporation shareholder to another person under this section that is reacquired by the S corporation shareholder or by a person related (within the meaning of paragraph (b)(12) of this section) to the S corporation shareholder during the 12-month disposition period shall not be considered as disposed of.

(6) *Qualified stock disposition*—(i) *In general.* The term *qualified stock disposition* means any transaction or series of transactions in which stock meeting the requirements of section 1504(a)(2) of a domestic corporation is either sold, exchanged, or distributed, or any combination thereof, by another domestic corporation or by the S corporation shareholders in a disposition, within the meaning of paragraph (b)(5) of this section, during the 12-month disposition period.

(ii) *Overlap with qualified stock purchase*—(A) *In general.* Except as provided in paragraph (b)(6)(ii)(B) of this section, a transaction satisfying the definition of a qualified stock disposition under paragraph (b)(6)(i) of this section, which also qualifies as a qualified stock purchase (as defined in section 338(d)(3)), will not be treated as a qualified stock disposition.

(B) *Exception.* If, as a result of the deemed sale of old target's assets pursuant to a section 336(e) election, there would be, but for paragraph (b)(6)(ii)(A) of this section, a qualified stock disposition of the stock of a subsidiary of target, then paragraph (b)(6)(ii)(A) shall not apply to the disposition of the stock of the subsidiary.

(7) *12-month disposition period.* The term *12-month disposition period* means the 12-month period beginning with the date of the first sale, exchange, or distribution of stock included in a qualified stock disposition.

(8) *Disposition date.* The term *disposition date* means, with respect to any corporation, the first day on which there is a qualified stock disposition with respect to the stock of such corporation.

(9) *Disposition date assets. Disposition date assets* are the assets of target held at the beginning of the day after the disposition date (but see § 1.338–1(d) (regarding certain transactions on the disposition date)).

(10) *Domestic corporation.* The term *domestic corporation* has the same meaning as in § 1.338–2(c)(9).

(11) *Section 336(e) election.* A section 336(e) election is an election to apply section 336(e) to target. A section 336(e) election is made by making an election for target under § 1.336–2(h).

(12) *Related persons.* Two persons are related if stock of a corporation owned by one of the persons would be attributed under section 318(a), other than section 318(a)(4), to the other. However, neither section 318(a)(2)(A) nor section 318(a)(3)(A) apply to attribute stock ownership from a partnership to a partner, or from a partner to a partnership, if such partner owns, directly or indirectly, interests representing less than five percent of the value of the partnership.

(13) *Liquidation.* Any reference to a liquidation is treated as a reference to the transfer described in § 1.336–2(b)(1)(iii) notwithstanding its ultimate characterization for Federal income tax purposes.

(14) *Deemed asset disposition.* The deemed sale of old target's assets is, without regard to its characterization for Federal income tax purposes, referred to as the deemed asset disposition.

(15) *Deemed disposition tax consequences.* Deemed disposition tax consequences refers to, in the aggregate, the Federal income tax consequences (generally, the income, gain, deduction, and loss) of the deemed asset disposition. Deemed disposition tax consequences also refers to the Federal income tax consequences of the transfer of a particular asset in the deemed asset disposition.

(16) *80-percent purchaser.* An 80-percent purchaser is any purchaser that, after application of the attribution rules of section 318(a), other than section 318(a)(4), owns 80 percent or more of the voting power or value of target stock.

(17) *Recently disposed stock.* The term *recently disposed stock* means any stock in target that is not held by seller, a member of seller's consolidated group, or an S corporation shareholder immediately after the close of the disposition date and that was disposed of by seller, a member of seller's consolidated group, or an S corporation

shareholder during the 12-month disposition period.

(18) *Nonrecently disposed stock.* The term *nonrecently disposed stock* means stock in target that is held on the disposition date by a purchaser or a person related (as described in § 1.336–1(b)(12)) to the purchaser who owns, on the disposition date, with the application of section 318(a), other than section 318(a)(4), at least 10 percent of the total voting power or value of the stock of target and that is not recently disposed stock.

(c) *Nomenclature.* For purposes of §§ 1.336–1 through 1.336–5, except as otherwise provided, Parent, Seller, Target, Sub, S Corporation Target, and Target Subsidiary are domestic corporations and A, B, C, and D are individuals, none of whom are related to Parent, Seller, Target, Sub, S Corporation Target, Target Subsidiary, or each other.

§ 1.336–2 Availability, mechanics, and consequences of section 336(e) election.

(a) *Availability of election.* A section 336(e) election is available if seller or S corporation shareholder(s) dispose of stock of another corporation (target) in a qualified stock disposition (as defined in § 1.336–1(b)(6)). A section 336(e) election is irrevocable. A section 336(e) election is not available for transactions described in section 336(e) that do not constitute qualified stock dispositions.

(b) *Deemed transaction*—(1) *Dispositions not described in section 355(d)(2) or (e)(2)*—(i) *Old target—deemed asset disposition*—(A) *In general.* This paragraph (b)(1) provides the Federal income tax consequences of a section 336(e) election made with respect to a qualified stock disposition not described, in whole or in part, in section 355(d)(2) or (e)(2). For the Federal income tax consequences of a section 336(e) election made with respect to a qualified stock disposition described, in whole or in part, in section 355(d)(2) or (e)(2), see paragraph (b)(2) of this section. In general, if a section 336(e) election is made, seller (or S corporation shareholders) are treated as not having sold, exchanged, or distributed the stock disposed of in the qualified stock disposition. Instead, old target is treated as selling its assets to an unrelated person in a single transaction at the close of the disposition date (but before the deemed liquidation described in paragraph (b)(1)(iii) of this section) in exchange for the aggregate deemed asset disposition price (ADADP) as determined under § 1.336–3. ADADP is allocated among the disposition date assets in the same manner as the aggregate deemed sale price (ADSP) is allocated under §§ 1.338–6 and 1.338–7 in order to determine the amount realized from each of the sold assets. Old target realizes the deemed disposition tax consequences from the deemed asset disposition before the close of the disposition date while old target is owned by seller or the S corporation shareholders. If old target is an S corporation target, old target's S election continues in effect through the close of the disposition date (including the time of the deemed asset disposition and the deemed liquidation) notwithstanding section 1362(d)(2)(B). Also, if old target is an S corporation target (but not a qualified subchapter S subsidiary), any direct or indirect subsidiaries of old target that old target has elected to treat as qualified subchapter S subsidiaries under section 1361(b)(3) remain qualified subchapter S subsidiaries through the close of the disposition date.

(B) *Gains and losses*—(*1*) *Gains.* Except as provided in § 1.338(h)(10)–1(d)(8) (regarding the installment method), old target shall recognize all of the gains realized on the deemed asset disposition.

(*2*) *Losses*—(*i*) *In general.* Except as provided in paragraphs (b)(1)(i)(B)(*2*)(*ii*), (*iii*), and (*iv*) of this section, old target shall recognize all of the losses realized on the deemed asset disposition.

(*ii*) *Stock distributions.* Notwithstanding paragraphs (b)(1)(i)(A) and (b)(1)(iii)(A) of this section, for purposes of determining the amount of target's losses that are disallowed on the deemed asset disposition, seller is still treated as selling, exchanging, or distributing its target stock disposed of in the 12-month disposition period. If target's losses realized on the deemed sale of all of its assets exceed target's gains realized (a net loss), the portion of such net loss attributable to a distribution of target stock during the 12-month disposition period is disallowed. The total amount of disallowed loss and the allocation of disallowed loss is determined in the manner provided in paragraphs (b)(1)(i)(B)(*2*)(*iii*) and (*iv*) of this section.

(*iii*) *Amount and allocation of disallowed loss.* The total disallowed loss pursuant to paragraph (b)(1)(i)(B)(*2*)(*ii*) of this section shall be determined by multiplying the net loss realized on the deemed asset disposition by the disallowed loss fraction. The numerator of the disallowed loss fraction is the value of target stock, determined on the disposition date, distributed by seller during the 12-month disposition period, whether or not a part of the qualified stock disposition (for example, stock distributed to a related person), and the denominator of the disallowed loss fraction is the sum of the value of target stock, determined on the disposition date, disposed of by sale or exchange in the qualified stock disposition during the 12-month disposition period and the value of target stock, determined on the disposition date, distributed by seller during the 12-month disposition period, whether or not a part of the qualified stock disposition. The amount of the disallowed loss allocated to each asset disposed of in the deemed asset disposition is determined by multiplying the total amount of the disallowed loss by the loss allocation fraction. The numerator of the loss allocation fraction is the amount of loss realized with respect to the asset and the denominator of the loss allocation fraction is the sum of the amount of losses realized with respect to each loss asset disposed of in the deemed asset disposition. To the extent old target's losses from the deemed asset disposition are not disallowed under this paragraph, such losses may be disallowed under other provisions of the Internal Revenue Code or general principles of tax law, in the same manner as if such assets were actually sold to an unrelated person.

(*iv*) *Tiered targets.* If an asset of target is the stock of a subsidiary corporation of target for which a section 336(e) election is made, any gain or loss realized on the deemed sale of the stock of the subsidiary corporation is disregarded in determining the amount of disallowed loss. For purposes of determining the amount of disallowed loss on the deemed asset disposition by a subsidiary of target for which a section 336(e) election is made, the amount of subsidiary stock deemed sold in the deemed asset disposition of target's assets multiplied by the disallowed loss fraction with respect to the corporation that is deemed to have disposed of stock of the subsidiary is considered to have been distributed. In determining the disallowed loss fraction with respect to the deemed asset disposition of any subsidiary of target, disregard any sale, exchange, or distribution of its stock that was made after the disposition date if such stock was included in the deemed asset disposition of the corporation deemed to have disposed of the subsidiary stock.

(*3*) *Examples.* The following examples illustrate this paragraph (b)(1)(i)(B).

Example 1. (i) *Facts.* Parent owns 60 of the 100 outstanding shares of the common stock of Seller, Seller's only class of stock outstanding. The remaining 40 shares of the common stock of Seller are held by shareholders unrelated to Seller or each

other. Seller owns 95 of the 100 outstanding shares of Target common stock, and all 100 shares of Target preferred stock that is described in section 1504(a)(4). The remaining 5 shares of Target common stock are owned by A. On January 1 of Year 1, Seller sells 72 shares of Target common stock to B for $3,520. On July 1 of Year 1, Seller distributes 12 shares of Target common stock to Parent and 8 shares to its unrelated shareholders in a distribution described in section 301. Seller retains 3 shares of Target common stock and all 100 shares of Target preferred stock immediately after July 1. The value of Target common stock on July 1 is $60 per share. The value of Target preferred stock on July 1 is $36 per share. Target has three assets, Asset 1, a Class IV asset, with a basis of $1,776 and a fair market value of $2,000, Asset 2, a Class V asset, with a basis of $2,600 and a fair market value of $2,750, and Asset 3, a Class V asset, with a basis of $3,900 and a fair market value of $3,850. Seller incurred no selling costs on the sale of the 72 shares of Target common stock to B. Target has no liabilities. A section 336(e) election is made.

(ii) *Consequences—Deemed Asset Sale.* Because at least 80 percent ((72 + 8)/100) of Target stock, other than stock described in section 1504(a)(4), was disposed of (within the meaning of § 1.336–1(b)(5)) by Seller during the 12-month disposition period, a qualified stock disposition occurred. July 1 of Year 1, the first day on which there was a qualified stock disposition with respect to Target stock, is the disposition date. Accordingly, pursuant to the section 336(e) election, for Federal income tax purposes, Seller generally is not treated as selling the 72 shares of Target common stock sold to B or distributing the 8 shares of Target common stock distributed to its unrelated shareholders. However, Seller is still treated as distributing the 12 shares of Target common stock distributed to Parent because Seller and Parent are related persons within the meaning of § 1.336–1(b)(12) and accordingly the 12 shares are not part of the qualified stock disposition. Target is treated as if, on July 1, it sold all of its assets to an unrelated person in exchange for the ADADP, $8,000, which is allocated $2,000 to Asset 1, $2,500 to Asset 2, and $3,500 to Asset 3 (see *Example 1* of § 1.336–3(g) for the determination and allocation of ADADP).

(iii) *Consequences—Amount and Allocation of Disallowed Loss.* Old Target realized a net loss of $276 on the deemed asset disposition ($224 gain realized on Asset 1, $100 loss realized on Asset 2, and $400 loss realized on Asset 3). However, 20 shares of Target common stock were distributed by Seller during the 12-month disposition period (8 shares distributed to Seller's unrelated shareholders in the qualified stock disposition plus 12 shares distributed to Parent that were not part of the qualified stock disposition). Therefore, because there was a net loss realized on the deemed asset disposition and a portion of the stock of Target was distributed during the 12-month disposition period, a portion of the loss on the deemed sale of each of Target's loss assets is disallowed. The total amount of disallowed loss equals $60 ($276 net loss realized on the deemed disposition of Assets 1, 2, and 3 multiplied by the disallowed loss fraction, the numerator of which is $1,200, the value on July 1, the disposition date, of the 20 shares of Target common stock distributed during the 12-month disposition period, and the denominator of which is $5,520, the sum of $4,320, the value on July 1 of the 72 shares of Target common stock sold to B and $1,200, the value on July 1 of the 20 shares of Target common stock distributed during the 12-month disposition period). The portion of the disallowed loss allocated to Asset 2 is $12 ($60 total disallowed loss multiplied by the loss allocation fraction, the numerator of which is $100, the loss realized on the deemed disposition of Asset 2 and the denominator of which is $500, the sum of the losses realized on the deemed disposition of Assets 2 and 3). The portion of the disallowed loss allocated to Asset 3 is $48 ($60 total disallowed loss multiplied by the loss allocation fraction, the numerator of which is $400, the loss realized on the deemed disposition of Asset 3 and the denominator of which is $500, the sum of the losses realized on the deemed disposition of Assets 2 and 3). Accordingly, Old Target recognizes $224 of gain on Asset 1, recognizes $88 of loss on Asset 2 (realized loss of $100 less allocated disallowed loss of $12), and recognizes $352 of loss on Asset 3 (realized loss of $400 less allocated disallowed loss of $48) or a recognized net loss of $216 on the deemed asset disposition.

Example 2. (i) *Facts.* The facts are the same as in *Example 1* except that Asset 2 is the stock of Target Subsidiary, a corporation of which Target owns 100 of the 110 shares of common stock, the only outstanding class of Target Subsidiary stock. The remaining 10 shares of Target Subsidiary stock are owned by D. The value of Target Subsidiary stock on July 1 is $27.50 per share. Target Subsidiary has two assets, Asset 4, a Class IV asset, with a basis of $800 and a fair market value of $1,000, and Asset 5, a Class IV asset, with a basis of $2,200 and a fair market value of $2,025. Target Subsidiary has no liabilities. A section 336(e) election with respect to Target Subsidiary is also made.

(ii) *Consequences—Target.* The ADADP on the deemed sale of Target's assets is determined and allocated in the same manner as in *Example 1*. However, Target's loss realized on the deemed sale of Target Subsidiary is disregarded in determining the amount of disallowed loss on the deemed asset disposition of Target's assets. Thus, the net loss is only $176 ($224 gain realized on Asset 1 and $400 loss realized on Asset 3), and the amount of disallowed loss equals $38.26 ($176 net loss multiplied by the disallowed loss fraction with respect to Target stock, $1,200/$5,520). The entire disallowed loss is allocated to Asset 3.

(iii) *Consequences—Target Subsidiary.* The deemed sale of the stock of Target Subsidiary is disregarded and instead Target Subsidiary is deemed to sell all of its assets to an unrelated person. The ADADP on the deemed asset disposition of Target Subsidiary is $2,750, which is allocated $909 to Asset 4 and $1,841 to Asset 5 (see *Example 2* of § 1.336–3(g) for the determination and allocation of ADADP). Old Target Subsidiary realized $109 of gain on Asset 4 and realized $359 of loss on Asset 5 in the deemed asset disposition. Although Old Target Subsidiary realized a net loss of $250 on the deemed asset disposition ($109 gain on Asset 4 and $359 loss on Asset 5), a portion of this net loss is disallowed because a portion of Target stock was distributed during the 12-month disposition period. For purposes of determining the amount of disallowed loss on the deemed sale of the assets of Target Subsidiary, the portion of the 100 shares of Target Subsidiary stock deemed sold by Target pursuant to the section 336(e) election for Target Subsidiary multiplied by the disallowed loss fraction with respect to Target stock is treated as having been distributed. Thus, for purposes of determining the amount of disallowed loss on the deemed asset disposition of Target Subsidiary's assets, 21.74 shares of Target Subsidiary stock (100 shares of Target Subsidiary stock owned by Target multiplied by the disallowed loss fraction with respect to Target stock, $1,200/$5,520) are treated as having been distributed by Target during the 12-month disposition period. The total amount of disallowed loss with respect to the deemed asset disposition of Target Subsidiary's assets equals $54 ($250 net loss realized on the deemed disposition of Assets 4 and 5 multiplied by the disallowed loss fraction with respect to Target Subsidiary, the numerator of which is $598, the value on July 1, the disposition date, of the 21.74 shares of Target Subsidiary stock deemed distributed during the 12-month disposition period (21.74 shares × $27.50) and the denominator of which is $2,750 (the sum of $2,152, the value on July 1 of the 78.26 shares of Target Subsidiary stock deemed sold in the qualified stock disposition pursuant to the section 336(e) election for Target Subsidiary (78.26 shares × $27.50) and $598, the value on July 1 of the 21.74 shares of Target Subsidiary stock deemed distributed during the 12-month disposition period)). (The 10 shares of Target Subsidiary owned by D are not part of the qualified stock disposition and therefore are not included in the denominator of the disallowed loss fraction.) All of the disallowed loss is allocated to Asset 5, the only loss asset. Accordingly, Old Target Subsidiary recognizes $109 of gain on Asset 4 and recognizes $305 of loss on Asset 5 (realized loss of $359 less disallowed loss of $54) or a net loss of $196 on the deemed asset disposition.

Example 3. (i) *Facts.* The facts are the same as in *Example 2* except that on August 1 of Year 1, Target sells 50 of its shares of Target Subsidiary stock and distributes the remaining 50 shares.

(ii) *Consequences.* Because the 100 shares of Target Subsidiary stock that were sold and distributed on August 1 were deemed disposed of on July 1 in the deemed asset disposition of Target, the August 1 sale and distribution of Target Subsidiary stock are disregarded in determining the amount of disallowed loss. Accordingly, the consequences are the same as in *Example 2*.

(C) *Tiered targets.* (i) In the case of parent-subsidiary chains of corporations

making section 336(e) elections, the deemed asset disposition of a higher-tier subsidiary is considered to precede the deemed asset disposition of a lower-tier subsidiary.

(ii) *New target—deemed purchase.* New target is treated as acquiring all of its assets from an unrelated person in a single transaction at the close of the disposition date (but before the deemed liquidation) in exchange for an amount equal to the adjusted grossed-up basis (AGUB) as determined under § 1.336–4. New target allocates the consideration deemed paid in the transaction in the same manner as new target would under §§ 1.338–6 and 1.338–7 in order to determine the basis in each of the purchased assets. If new target qualifies as a small business corporation within the meaning of section 1361(b) and wants to be an S corporation, a new election under section 1362(a) must be made. Notwithstanding paragraph (b)(1)(iii) of this section (deemed liquidation of old target), new target remains liable for the tax liabilities of old target (including the tax liability for the deemed disposition tax consequences). For example, new target remains liable for the tax liabilities of the members of any consolidated group that are attributable to taxable years in which those corporations and old target joined in the same consolidated return. See § 1.1502–6(a).

(iii) *Old target and seller—deemed liquidation*—(A) *In general.* If old target is an S corporation, S corporation shareholders (whether or not they sell or exchange their stock) take their pro rata share of the deemed disposition tax consequences into account under section 1366 and increase or decrease their basis in target stock under section 1367. Old target and seller (or S corporation shareholders) are treated as if, before the close of the disposition date, after the deemed asset disposition described in paragraph (b)(1)(i)(A) of this section, and while target is owned by seller or S corporation shareholders, old target transferred all of the consideration deemed received from new target in the deemed asset disposition to seller or S corporation shareholders, any S corporation election for old target terminated, and old target ceased to exist. The transfer from old target to seller or S corporation shareholders is characterized for Federal income tax purposes in the same manner as if the parties had actually engaged in the transactions deemed to occur because of this section and taking into account other transactions that actually occurred or are deemed to occur. For example, the transfer may be treated as a distribution in pursuance of a plan of reorganization, a distribution in complete cancellation or redemption of all of its stock, one of a series of distributions in complete cancellation or redemption of all of its stock in accordance with a plan of liquidation, or part of a circular flow of cash. In most cases, the transfer will be treated as a distribution in complete liquidation to which sections 331 or 332 and sections 336 or 337 apply.

(B) *Tiered targets.* In the case of parent-subsidiary chains of corporations making section 336(e) elections, the deemed liquidation of a lower-tier subsidiary corporation is considered to precede the deemed liquidation of a higher-tier subsidiary.

(iv) *Seller—distribution of target stock.* In the case of a distribution of target stock in a qualified stock disposition, seller (the distributor) is deemed to purchase from an unrelated person, on the disposition date, immediately after the deemed liquidation of old target, the amount of stock distributed in the qualified stock disposition (new target stock) and to have distributed such new target stock to its shareholders. Seller recognizes no gain or loss on the distribution of such stock.

(v) *Seller—retention of target stock.* If seller or an S corporation shareholder retains any target stock after the disposition date, seller or the S corporation shareholder is treated as purchasing the stock so retained from an unrelated person (new target stock) on the day after the disposition date for its fair market value. The holding period for the retained stock starts on the day after the disposition date. For purposes of this paragraph (b)(1)(v), the fair market value of all of the target stock equals the grossed-up amount realized on the sale, exchange, or distribution of recently disposed stock of target (see § 1.336–3(c)).

(2) *Dispositions described in section 355(d)(2) or (e)(2)*—(i) *Old target—deemed asset disposition*—(A) *In general.* This paragraph (b)(2) provides the Federal income tax consequences of a section 336(e) election made with respect to a qualified stock disposition resulting, in whole or in part, from a disposition described in section 355(d)(2) or (e)(2). Old target is treated as selling its assets to an unrelated person in a single transaction at the close of the disposition date in exchange for the ADADP as determined under § 1.336–3. ADADP is allocated among the disposition date assets in the same manner as ADSP is allocated under §§ 1.338–6 and 1.338–7 in order to determine the amount realized from each of the sold assets. Old target realizes the deemed disposition tax consequences from the deemed asset disposition before the close of the disposition date while old target is owned by seller.

(*1*) *Old target not deemed to liquidate.* In general, unlike a section 338(h)(10) election or a section 336(e) election made with respect to a qualified stock disposition not described, in whole or in part, in section 355(d)(2) or (e)(2), old target is not deemed to liquidate after the deemed asset disposition.

(*2*) *Exception.* If an election is made under § 1.1502–13(f)(5)(ii)(E), then solely for purposes of § 1.1502–13(f)(5)(ii)(C), immediately after the deemed asset disposition of old target, old target is deemed to liquidate into seller.

(B) *Gains and losses*—(*1*) *Gains.* Except as provided in § 1.338(h)(10)-1(d)(8) (regarding the installment method), old target shall recognize all of the gains realized on the deemed asset disposition.

(*2*) *Losses*—(*i*) *In general.* Except as provided in paragraphs (b)(2)(i)(B)(*2*)(*ii*), (*iii*), and (*iv*) of this section, old target shall recognize all of the losses realized on the deemed asset disposition.

(*ii*) *Stock distributions.* If target's losses realized on the deemed sale of all of its assets exceed target's gains realized (a net loss), the portion of such net loss attributable to a distribution of target stock during the 12-month disposition period is disallowed. The total amount of disallowed loss and the allocation of disallowed loss is determined in the manner provided in paragraphs (b)(2)(i)(B)(*2*)(*iii*) and (*iv*) of this section.

(*iii*) *Amount and allocation of disallowed loss.* The total disallowed loss pursuant to paragraph (b)(2)(i)(B)(*2*)(*ii*) of this section shall be determined by multiplying the net loss realized on the deemed asset disposition by the disallowed loss fraction. The numerator of the disallowed loss fraction is the value of target stock, determined on the disposition date, distributed by seller during the 12-month disposition period, whether or not a part of the qualified stock disposition (for example, stock distributed to a related person), and the denominator of the disallowed loss fraction is the sum of the value of target stock, determined on the disposition date, disposed of by sale or exchange in the qualified stock disposition during the 12-month disposition period and the value of target stock, determined on the disposition date, distributed by seller during the 12-month disposition period, whether or not a part of the qualified stock disposition. The amount of the

disallowed loss allocated to each asset disposed of in the deemed asset disposition is determined by multiplying the total amount of the disallowed loss by the loss allocation fraction. The numerator of the loss allocation fraction is the amount of loss realized with respect to the asset and the denominator of the loss allocation fraction is the sum of the amount of losses realized with respect to each loss asset disposed of in the deemed asset disposition. To the extent old target's losses from the deemed asset disposition are not disallowed under this paragraph, such losses may be disallowed under other provisions of the Internal Revenue Code or general principles of tax law, in the same manner as if such assets were actually sold to an unrelated person.

(*iv*) *Tiered targets.* If an asset of target is the stock of a subsidiary corporation of target for which a section 336(e) election is made, any gain or loss realized on the deemed sale of the stock of the subsidiary corporation is disregarded in determining the amount of disallowed loss. For purposes of determining the amount of disallowed loss on the deemed asset disposition by a subsidiary of target for which a section 336(e) election is made, see paragraph (b)(1)(i)(B)(*2*) of this section.

(*3*) *Examples.* The following examples illustrate this paragraph (b)(2)(i)(B).

Example 1. (i) *Facts.* Seller owns 90 of the 100 outstanding shares of Target common stock, the only class of Target stock outstanding. The remaining 10 shares of Target common stock are owned by C. On January 1 of Year 1, Seller sells 10 shares of Target common stock to D for $910. On July 1, in an unrelated transaction, Seller distributes its remaining 80 shares of Target common stock to its unrelated shareholders in a distribution described in section 355(d)(2) or (e)(2). On July 1, the value of Target common stock is $100 per share. Target has three assets, Asset 1 with a basis of $1,220, Asset 2 with a basis of $3,675, and Asset 3 with a basis of $5,725. Seller incurred no selling costs on the sale of the 10 shares of Target common stock to D. Target has no liabilities. A section 336(e) election is made.

(ii) *Consequences.* Because at least 80 percent of Target stock ((10 + 80)/100) was disposed of (within the meaning of § 1.336–1(b)(5)) by Seller during the 12-month disposition period, a qualified stock disposition occurred. July 1 of Year 1, the first day on which there was a qualified stock disposition with respect to Target, is the disposition date. Accordingly, pursuant to the section 336(e) election, for Federal income tax purposes, Target is treated as if, on July 1, it sold all of its assets to an unrelated person in exchange for the ADADP, $9,900, as determined under § 1.336–3. Assume that the ADADP is allocated $2,000 to Asset 1, $3,300 to Asset 2, and $4,600 to Asset 3 under § 1.336–3. Old Target realized a net loss of $720 on the deemed asset disposition ($780 gain realized on Asset 1, $375 loss realized on Asset 2, and $1,125 loss realized on Asset 3). However, because a portion of Target stock was distributed during the 12-month disposition period and there was a net loss on the deemed asset disposition, a portion of the loss on each of the loss assets is disallowed. The total amount of disallowed loss equals $640 ($720 net loss realized on the deemed disposition of Assets 1, 2, and 3 multiplied by the disallowed loss fraction, the numerator of which is $8,000, the value on July 1, the disposition date, of the 80 shares of Target common stock distributed by Seller during the 12-month disposition period, and the denominator of which is $9,000, the sum of $1,000, the value on July 1 of the 10 shares of Target common stock sold to D, and $8,000, the value on July 1 of the 80 shares of Target common stock distributed by Seller during the 12-month disposition period). The portion of the disallowed loss allocated to Asset 2 is $160 ($640 total disallowed loss on the deemed asset disposition multiplied by the loss allocation fraction, the numerator of which is $375, the loss realized on the deemed disposition of Asset 2, and the denominator of which is $1,500, the sum of the losses realized on the deemed disposition of Assets 2 and 3). The portion of the disallowed loss allocated to Asset 3 is $480 ($640 total disallowed loss on the deemed asset disposition multiplied by the loss allocation fraction, the numerator of which is $1,125, the loss realized on the deemed disposition of Asset 3, and the denominator of which is $1,500, the sum of the losses realized on the deemed disposition of Assets 2 and 3). Accordingly, Old Target recognizes $780 of gain on Asset 1, recognizes $215 of loss on Asset 2 (realized loss of $375 less allocated disallowed loss of $160), and recognizes $645 of loss on Asset 3 (realized loss of $1,125 less allocated disallowed loss of $480) or a recognized net loss of $80 on the deemed asset disposition.

Example 2. (i) *Facts.* The facts are the same as in *Example 1* except that Asset 2 is 100 shares of common stock of Target Subsidiary, a wholly-owned subsidiary of Target. The value of Target Subsidiary common stock on July 1 is $40 per share. Target Subsidiary has two assets, Asset 4 with a basis of $500 and Asset 5 with a basis of $3,000. Target Subsidiary has no liabilities. A section 336(e) election is also made with respect to Target Subsidiary.

(ii) *Consequences—Target.* The ADADP on the deemed sale of Target's assets is determined and allocated in the same manner as in *Example 1.* However, Old Target's loss realized on the deemed sale of Target Subsidiary is disregarded in determining the amount of the disallowed loss on the deemed asset disposition of Old Target's assets. Thus, the realized net loss is only $345 ($780 gain on Asset 1 and $1,125 loss on Asset 3), and the amount of disallowed loss equals $307, the $345 realized net loss multiplied by the disallowed loss fraction with respect to Target stock, $8,000/$9,000. The entire disallowed loss is allocated to Asset 3. Accordingly, Old Target recognizes $780 of gain on Asset 1 and recognizes $818 of loss on Asset 3 (realized loss of $1,125 less allocated disallowed loss of $307) or a recognized net loss of $38 on the deemed asset disposition.

(iii) *Consequences—Target Subsidiary.* Because the deemed sale of Target Subsidiary is not a transaction described in section 355(d)(2) or (e)(2), the tax consequences of the deemed sale of Target Subsidiary are determined under paragraph (b)(1) of this section and not this paragraph (b)(2). The deemed sale of the stock of Target Subsidiary is disregarded and instead Target Subsidiary is deemed to sell all of its assets to an unrelated person. The ADADP on the deemed asset disposition of Target Subsidiary as determined under § 1.336–3 is $3,300. Assume that the ADADP is allocated $900 to Asset 4 and $2,400 to Asset 5 under § 1.336–3. Old Target Subsidiary realized a net loss of $200 on the deemed asset disposition ($400 gain realized on Asset 4 and $600 loss realized on Asset 5). However, because a portion of Target stock was distributed during the 12-month disposition period, for purposes of determining the amount of disallowed loss on the deemed sale of the assets of Target Subsidiary, the portion of the 100 shares of Target Subsidiary stock deemed sold pursuant to the section 336(e) election for Target Subsidiary multiplied by the disallowed loss fraction with respect to Target stock are treated as having been distributed. Thus, for purposes of determining the amount of disallowed loss on the deemed asset disposition of Target Subsidiary's assets, 88.89 shares of Target Subsidiary common stock (100 shares owned by Target multiplied by the disallowed loss fraction with respect to Target stock, $8,000/$9,000) are treated as distributed during the 12-month disposition period. The total amount of disallowed loss with respect to the deemed asset disposition of Target Subsidiary's assets equals $177.78 ($200 net loss realized on the deemed disposition of Assets 4 and 5 multiplied by the disallowed loss fraction with respect to Target Subsidiary, the numerator of which is $3,556, the value on July 1, the disposition date, of the 88.89 shares of Target Subsidiary common stock deemed distributed during the 12-month disposition period (88.89 shares × $40) and the denominator of which is $4,000 (the sum of $444, the value on July 1 of the 11.11 shares of Target Subsidiary common stock deemed sold in the qualified stock disposition pursuant to the section 336(e) election for Target Subsidiary (11.11 shares × $40) and $3,556, the value on July 1 of the 88.89 shares of Target Subsidiary common stock deemed distributed during the 12-month disposition period)). All of the disallowed loss is allocated to Asset 5, the only loss asset. Accordingly, Old Target Subsidiary recognizes $400 of gain on Asset 4 and recognizes $422.22 of loss on Asset 5 (realized loss of $600 less allocated disallowed loss of $177.78) or a recognized net loss of $22.22 on the deemed asset disposition.

(C) *Tiered targets.* In the case of parent-subsidiary chains of corporations making section 336(e) elections, the

deemed asset disposition of a higher-tier subsidiary is considered to precede the deemed asset disposition of a lower-tier subsidiary.

(ii) *Old target—deemed purchase*—(A) *In general.* Immediately after the deemed asset disposition described in paragraph (b)(2)(i)(A) of this section, old target is treated as acquiring all of its assets from an unrelated person in a single, separate transaction at the close of the disposition date (but before the distribution described in paragraph (b)(2)(iii)(A) of this section) in exchange for an amount equal to the AGUB as determined under § 1.336–4. Old target allocates the consideration deemed paid in the transaction in the same manner as new target would under §§ 1.338–6 and 1.338–7 in order to determine the basis in each of the purchased assets.

(B) *Tiered targets.* In the case of parent-subsidiary chains of corporations making section 336(e) elections with respect to a qualified stock disposition described, in whole or in part, in section 355(d)(2) or (e)(2), old target's deemed purchase of all its assets is considered to precede the deemed asset disposition of a lower-tier subsidiary.

(C) *Application of section 197(f)(9), section 1091, and other provisions to old target.* Solely for purposes of section 197(f)(9), section 1091, and any other provision designated in the Internal Revenue Bulletin by the Internal Revenue Service (see § 601.601(d)(2)(ii) of this chapter), old target, in its capacity as seller of assets in the deemed asset disposition described in paragraph (b)(2)(i)(A) of this section, shall be treated as a separate and distinct taxpayer from, and unrelated to, old target in its capacity as acquirer of assets in the deemed purchase described in paragraph (b)(2)(ii)(A) of this section and for subsequent periods.

(iii) *Seller—distribution of target stock*—(A) *In general.* Immediately after old target's deemed purchase of its assets described in paragraph (b)(2)(ii) of this section, seller is treated as distributing the stock of old target actually distributed to its shareholders in the qualified stock disposition. No gain or loss is recognized by seller on the distribution. Additionally, if stock of target is sold, exchanged, or distributed outside of the section 355 transaction but still as part of a qualified stock disposition described, in whole or in part, in section 355(d)(2) or (e)(2), no gain or loss is recognized by seller on such sale, exchange, or distribution.

(B) *Tiered targets.* In the case of parent-subsidiary chains of corporations making section 336(e) elections with respect to a qualified stock disposition described, in whole or in part, in section 355(d)(2) or (e)(2), the Federal income tax consequences of the section 336(e) election for a subsidiary of target shall be determined under paragraph (b)(1) of this section unless the stock of the subsidiary of target is actually disposed of in a qualified stock disposition described, in whole or in part, in section 355(d)(2) or (e)(2). The deemed liquidation of a lower-tier subsidiary pursuant to paragraph (b)(1)(iii) of this section is considered to precede the deemed liquidation of a higher-tier subsidiary. The deemed liquidation of the highest tier subsidiary of target is considered to precede the distribution of old target stock described in paragraph (b)(2)(iii)(A) of this section.

(iv) *Seller—retention of target stock.* If seller retains any target stock after the disposition date, seller is treated as having disposed of the old target stock so retained, on the disposition date, in a transaction in which no gain or loss is recognized, and then, on the day after the disposition date, purchasing the stock so retained from an unrelated person for its fair market value. The holding period for the retained stock starts on the day after the disposition date. For purposes of this paragraph (b)(2)(iv), the fair market value of all of the target stock equals the grossed-up amount realized on the sale, exchange, or distribution of recently disposed stock of target (see § 1.336–3(c)).

(v) *Qualification under section 355.* Old target's deemed sale of all its assets to an unrelated person and old target's deemed purchase of all its assets from an unrelated person will not cause the distribution of old target to fail to satisfy the requirements of section 355. Similarly, any deemed transactions under paragraph (b)(1) or (b)(2) of this section that a subsidiary of target is treated as engaging in will not cause the distribution of old target to fail to satisfy the requirements of section 355. For purposes of applying section 355(a)(1)(D), seller is treated as having disposed of any stock disposed of in the qualified stock disposition on the date seller actually sold, exchanged, or distributed such stock. Further, seller's deemed disposition of retained old target stock under paragraph (b)(2)(iv) of this section is disregarded for purposes of applying section 355(a)(1)(D).

(vi) *Earnings and profits.* The earnings and profits of seller and target shall be determined pursuant to § 1.312–10 and, if applicable, § 1.1502–33(e). For this purpose, target will not be treated as a newly created controlled corporation and any increase or decrease in target's earnings and profits pursuant to the deemed asset disposition will increase or decrease, as the case may be, target's earnings and profits immediately before the allocation described in § 1.312–10.

(c) *Purchaser.* Generally, the making of a section 336(e) election will not affect the Federal income tax consequences to which purchaser would have been subject with respect to the acquisition of target stock if a section 336(e) election was not made. Thus, notwithstanding §§ 1.336–2(b)(1)(i)(A), 1.336–2(b)(1)(iv), and 1.336–2(b)(2)(iii)(A), purchaser will still be treated as having purchased, received in an exchange, or received in a distribution, the stock of target so acquired on the date actually acquired. However, see section 1223(1)(B) with respect to the holding period for stock acquired pursuant to a distribution qualifying under section 355 (or so much of section 356 that relates to section 355). The Federal income tax consequences of the deemed asset disposition and liquidation of target may affect purchaser's consequences. For example, if seller distributes the stock of target to its shareholders in a qualified stock disposition for which a section 336(e) election is made, any increase in seller's earnings and profits as a result of old target's deemed asset disposition and liquidation into seller may increase the amount of a distribution to the shareholders constituting a dividend under section 301(c)(1).

(d) *Minority shareholders*—(1) *In general.* This paragraph (d) describes the treatment of shareholders of old target other than seller, a member of seller's consolidated group, and S corporation shareholders (whether or not they sell or exchange their stock of target). A shareholder to which this paragraph (d) applies is referred to as a minority shareholder.

(2) *Sale, exchange, or distribution of target stock by a minority shareholder.* A minority shareholder recognizes gain or loss (as permitted under the general principles of tax law) on its sale, exchange, or distribution of target stock.

(3) *Retention of target stock by a minority shareholder.* A minority shareholder who retains its target stock does not recognize gain or loss under this section with respect to its shares of target stock. The minority shareholder's basis and holding period for that target stock are not affected by the section 336(e) election. Notwithstanding this treatment of the minority shareholder, if a section 336(e) election is made, target will still be treated as disposing of all of its assets in the deemed asset disposition.

(e) *Treatment consistent with an actual asset disposition.* Except as otherwise provided, no provision in this

section shall produce a Federal income tax result under subtitle A of the Internal Revenue Code that would not occur if the parties had actually engaged in the transactions deemed to occur because of this section, taking into account other transactions that actually occurred or are deemed to occur. See § 1.338–1(a)(2) regarding the application of other rules of law.

(f) *Treatment of target under other provisions of the Internal Revenue Code.* The provisions § 1.338–1(b) apply with respect to the treatment of new target after a section 336(e) election, treating any reference to section 338 or 338(h)(10) as a reference to section 336(e).

(g) *Special rules*—(1) *Target as two corporations.* Although target is a single corporation under corporate law, if a section 336(e) election is made, then, except with respect to a distribution described in section 355(d)(2) or (e)(2) and as provided in § 1.338–1(b)(2), two separate corporations, old target and new target, generally are considered to exist for purposes of subtitle A of the Internal Revenue Code.

(2) *Treatment of members of a consolidated group.* For purposes of §§ 1.336–1 through 1.336–5, all members of seller's consolidated group are treated as a single seller, regardless of which member or members actually dispose of any stock. Accordingly, any dispositions of stock made by members of the same consolidated group shall be treated as made by one corporation, and any stock owned by members of the same consolidated group and not disposed of will be treated as stock retained by seller.

(3) *International provisions*—(i) *Source and foreign tax credit.* The principles of section 338(h)(16) apply to section 336(e) elections for targets with foreign operations to ensure that the source and foreign tax credit limitation are properly determined.

(ii) *Allocation of foreign taxes*—(A) *General rule.* Except as provided in paragraph (g)(3)(ii)(B) of this section, if a section 336(e) election is made for target and target's taxable year under foreign law (if any) does not close at the end of the disposition date, foreign tax paid or accrued by new target with respect to such foreign taxable year is allocated between old target and new target. If there is more than one section 336(e) election with respect to target during target's foreign taxable year, foreign tax paid or accrued with respect to that foreign taxable year is allocated among all old targets and new targets. The allocation is made based on the respective portions of the taxable income (as determined under foreign law) for the foreign taxable year that are attributable under the principles of § 1.1502–76(b) to the period of existence of each old target and new target during the foreign taxable year.

(B) *Taxes imposed on partnerships and disregarded entities.* If a section 336(e) election is made for target and target holds an interest in a disregarded entity or partnership, the rules of § 1.901–2(f)(4) apply to determine the person who is considered for U.S. Federal income tax purposes to pay foreign tax imposed at the entity level on the income of the disregarded entity or partnership.

(iii) *Disallowance of foreign tax credits under section 901(m).* For rules that may apply to disallow foreign tax credits with respect to income not subject to United States taxation by reason of a covered asset acquisition, see section 901(m).

(h) *Making the section 336(e) election*—(1) *Consolidated group.* If seller(s) and target are members of the same consolidated group, a section 336(e) election is made by completing the following requirements:

(i) Seller(s) and target must enter into a written, binding agreement, on or before the due date (including extensions) of the consolidated group's consolidated Federal income tax return for the taxable year that includes the disposition date, to make a section 336(e) election;

(ii) The common parent of the consolidated group must retain a copy of the written agreement;

(iii) The common parent of the consolidated group must attach the section 336(e) election statement, described in paragraphs (h)(5) and (6) of this section, to the group's timely filed (including extensions) consolidated Federal income tax return for the taxable year that includes the disposition date; and

(iv) The common parent of the consolidated group must provide a copy of the section 336(e) election statement to target on or before the due date (including extensions) of the consolidated group's consolidated Federal income tax return.

(2) *Non-consolidated/non-S corporation target.* If target is neither a member of the same consolidated group as seller nor an S corporation, a section 336(e) election is made by completing the following requirements:

(i) Seller and target must enter into a written, binding agreement, on or before the due date (including extensions) of seller's or target's Federal income tax return for the taxable year that includes the disposition date, whichever is earlier, to make a section 336(e) election;

(ii) Seller and target each must retain a copy of the written agreement; and

(iii) Seller and target each must attach the section 336(e) election statement, described in paragraphs (h)(5) and (6) of this section, to its timely filed (including extensions) Federal income tax return for the taxable year that includes the disposition date. However, seller's section 336(e) election statement may disregard paragraph (h)(6)(xii) of this section (concerning a gain recognition election).

(3) *S corporation target.* A section 336(e) election for an S corporation target is made by completing the following requirements:

(i) All of the S corporation shareholders, including those who do not dispose of any stock in the qualified stock disposition, and the S corporation target must enter into a written, binding agreement, on or before the due date (including extensions) of the Federal income tax return of the S corporation target for the taxable year that includes the disposition date, to make a section 336(e) election;

(ii) S corporation target must retain a copy of the written agreement; and

(iii) S corporation target must attach the section 336(e) election statement, described in paragraphs (h)(5) and (6) of this section, to its timely filed (including extensions) Federal income tax return for the taxable year that includes the disposition date.

(4) *Tiered targets.* In the case of parent-subsidiary chains of corporations making section 336(e) elections, in order to make a section 336(e) election for a lower-tier target (target subsidiary), the requirements described in paragraph (h)(1) or (h)(2), of this section, whichever is applicable to the qualified stock disposition of target subsidiary, must be satisfied. The written agreement described in paragraph (h)(1) or (h)(2) of this section for the section 336(e) election with respect to target subsidiary may be either a separate written agreement between target subsidiary and the corporation deemed to dispose of the stock of target subsidiary or may be included in the written agreement between seller(s) (or the S corporation shareholders) and target.

(5) *Section 336(e) election statement*—(i) *In general.* The section 336(e) election statement must be entitled "THIS IS AN ELECTION UNDER SECTION 336(e) TO TREAT THE DISPOSITION OF THE STOCK OF [insert name and employer identification number of target] AS A DEEMED SALE OF SUCH CORPORATION'S ASSETS." The

section 336(e) election statement must include the information described in paragraph (h)(6) of this section. The relevant information for each S corporation shareholder and, notwithstanding paragraph (g)(2) of this section, each consolidated group member that disposes of or retains target stock must be set forth individually, not in the aggregate.

(ii) *Target subsidiaries.* In the case of a section 336(e) election for a target subsidiary, a separate statement must be filed for each target subsidiary. In preparing the section 336(e) election statement with respect to a target subsidiary, any reference to seller in paragraph (h)(6) of this section should be considered a reference to the corporation deemed to dispose of the stock of the target subsidiary and any reference to target in paragraphs (h)(5)(i) and (h)(6) of this section should be considered a reference to the target subsidiary.

(6) *Contents of section 336(e) election statement.* The section 336(e) election statement must include:

(i) The name, address, taxpayer identifying number (TIN), taxable year, and state of incorporation (if any) of the seller(s) or the S corporation shareholder(s);

(ii) The name, address, employer identification number (EIN), taxable year, and state of incorporation of the common parent, if any, of seller(s);

(iii) The name, address, EIN, taxable year, and state of incorporation of target;

(iv) The name, address, TIN, taxable year, and state of incorporation (if any) of any 80-percent purchaser;

(v) The name, address, TIN, taxable year, and state of incorporation (if any) of any purchaser that holds nonrecently disposed stock within the meaning of § 1.336–1(b)(18);

(vi) The disposition date;

(vii) The percentage of target stock that was disposed of by each seller or S corporation shareholder in the qualified stock disposition;

(viii) The percentage of target stock that was disposed of by each seller or S corporation shareholder in the qualified stock disposition on or before the disposition date;

(ix) A statement regarding whether target realized a net loss on the deemed asset disposition;

(x) If target realized a net loss on the deemed asset disposition, a statement regarding whether any stock of target or that of any higher-tier corporation up through the highest-tier corporation for which a section 336(e) election was made by any seller(s) or S corporation shareholder(s) was distributed during the 12-month disposition period. If so, also provide a statement regarding whether any stock of target or that of any higher-tier corporation up through the highest-tier corporation for which a section 336(e) election was made was actually sold or exchanged (rather than deemed sold in a deemed asset disposition) by any seller(s) or S corporation shareholder(s) in a qualified stock disposition;

(xi) The percentage of target stock that was retained by each seller or S corporation shareholder after the disposition date;

(xii) The name, address, and TIN of any purchaser that made a gain recognition election pursuant to § 1.336–4(c). A copy of the gain recognition election statement must be retained by the filer of the section 336(e) election statement designated as the appropriate party in § 1.336–4(c)(3); and

(xiii) A statement that each of the seller(s) or S corporation shareholder(s) (as applicable) and target have executed a written, binding agreement to make a section 336(e) election.

(7) *Asset Allocation Statement.* Old target and new target must report information concerning the deemed sale of target's assets on Form 8883, "Asset Allocation Statement Under Section 338," (making appropriate adjustments to report the results of the section 336(e) election), or on any successor form prescribed by the Internal Revenue Service, in accordance with forms, instructions, or other appropriate guidance provided by the Internal Revenue Service. In addition, in the case of a section 336(e) election as the result of a transaction described in section 355(d)(2) or (e)(2), old target should file two Forms 8883, (or successor forms), one in its capacity as the seller of the assets in the deemed asset disposition described in paragraph (b)(2)(i) of this section and one in its capacity as the purchaser of the assets in the deemed purchase described in paragraph (b)(2)(ii) of this section.

(8) *Examples.* The following examples illustrate the provisions of paragraph (h) of this section.

Example 1. (i) *Facts.* Seller owns all of the stock of Target and Target owns all of the stock of Target Subsidiary. Seller is the common parent of a consolidated group that includes Target. However, Target Subsidiary is not included in the consolidated group pursuant to section 1504(a)(3). On Date 1, Seller sells 80 percent of its Target stock to A and distributes the remaining 20 percent of Target stock to Seller's unrelated shareholders.

(ii) *Making of election for Target.* Because Seller and Target are members of a consolidated group, in order to make a section 336(e) election for the qualified stock disposition of Target, the requirements of paragraph (h)(1) of this section must be satisfied. On or before the due date of Seller group's consolidated Federal income tax return that includes Date 1, Seller and Target must enter into a written, binding agreement to make a section 336(e) election; Seller must retain a copy of the written agreement; Seller must attach the section 336(e) election statement to the group's timely filed consolidated return for the taxable year that includes Date 1, and Seller must provide a copy of the section 336(e) election statement to Target on or before the due date (including extensions) of the consolidated return.

(iii) *Making of election for Target Subsidiary.* Because Target and Target Subsidiary do not join in the filing of a consolidated Federal income tax return and Target Subsidiary is not an S corporation, in order to make a section 336(e) election for the qualified stock disposition of Target Subsidiary, the requirements of paragraph (h)(2) of this section must be satisfied. On or before the due date of Seller group's consolidated Federal income tax return that includes Date 1, or Target Subsidiary's Federal income tax return that includes Date 1, whichever is earlier, either Target Subsidiary must join in the written agreement described in paragraph (ii) of this *Example 1* to make a section 336(e) election with respect to the qualified stock disposition of Target Subsidiary or Target and Target Subsidiary must enter into a separate written, binding agreement to make a section 336(e) election with respect to the qualified stock disposition of Target Subsidiary; Seller (as agent of the consolidated group that includes Target) and Target Subsidiary each must retain a copy of the written agreement; and Seller (as agent of the consolidated group that includes Target) and Target Subsidiary each must attach the section 336(e) election statement with respect to the qualified stock disposition of Target Subsidiary to its timely filed Federal income tax return for the taxable year that includes Date 1. In preparing the section 336(e) election statement, paragraph (i) of the statement should include the relevant information for Target, paragraph (ii) of the statement should include the relevant information for Seller, paragraph (iii) of the statement should include the relevant information for Target Subsidiary, paragraphs (vii) through (xi) of the statement should provide information for both Seller's actual sale and distribution of Target stock as well as information for Target's deemed sale of Target Subsidiary stock, and paragraph (xiii) of the statement should include a statement that Seller, Target, and Target Subsidiary, or Target and Target Subsidiary, whichever is appropriate, have executed a written, binding agreement to make a section 336(e) election with respect to the qualified stock disposition of Target Subsidiary.

Example 2. (i) *Facts.* A and B each own 45 percent and C owns the remaining 10 percent of the stock of S Corporation Target, an S corporation. S Corporation Target owns 80 percent of the stock of Target Subsidiary and D owns the remaining 20 percent. On Date 1, A and B each sell all of their S Corporation Target stock to an unrelated individual. C retains his 10 percent of the stock of S Corporation Target.

(ii) *Making of election for S Corporation Target.* Because S Corporation Target is an S corporation, in order to make a section 336(e) election for the qualified stock disposition of S Corporation Target, the requirements of paragraph (h)(3) of this section must be satisfied. On or before the due date of S Corporation Target's Federal income tax return that includes Date 1, A, B, C, and Target must enter into a written, binding agreement to make a section 336(e) election; S Corporation Target must retain a copy of the written agreement; and S Corporation Target must attach the section 336(e) election statement to its timely filed Federal income tax return for the taxable year that includes Date 1.

(iii) *Making of election for Target Subsidiary.* Because Target Subsidiary is neither a member of the same consolidated group as S Corporation Target nor is an S corporation, in order to make a section 336(e) election for the qualified stock disposition of Target Subsidiary, the requirements of paragraph (h)(2) of this section must be satisfied. On or before the due date of S Corporation Target's Federal income tax return that includes Date 1, or Target Subsidiary's Federal income tax return that includes Date 1, whichever is earlier, either Target Subsidiary must join in the written agreement described in paragraph (ii) of this *Example 2* to make a section 336(e) election with respect to the qualified stock disposition of Target Subsidiary or S Corporation Target and Target Subsidiary must enter into a separate written, binding agreement to make a section 336(e) election with respect to the qualified stock disposition of Target Subsidiary; S Corporation Target and Target Subsidiary each must retain a copy of the written agreement; and S Corporation Target and Target Subsidiary each must attach the section 336(e) election statement to its timely filed Federal income tax return for the taxable year that includes Date 1. In preparing the section 336(e) election statement, paragraph (i) of the statement should include the relevant information for S Corporation Target, paragraph (iii) of the statement should include the relevant information for Target Subsidiary, paragraphs (vii) through (xi) of the statement should provide information for both A's and B's actual sale and C's actual retention of S Corporation Target stock as well as information for S Corporation Target's deemed sale of Target Subsidiary stock, and paragraph (xiii) of the statement should include a statement that A, B, C, S Corporation Target, and Target Subsidiary, or S Corporation Target and Target Subsidiary, whichever is appropriate, have executed a written, binding agreement to make a section 336(e) election with respect to the qualified stock disposition of Target Subsidiary.

(i) [Reserved]

(j) *Protective section 336(e) election.* Taxpayers may make a protective election under section 336(e) in connection with a transaction. Such an election will have no effect if the transaction does not constitute a qualified stock disposition, as defined in § 1.336–1(b)(6), but will otherwise be binding and irrevocable.

(k) *Examples.* The following examples illustrate the provisions of this section.

Example 1. Sale of 100 percent of Target stock. (i) *Facts.* Parent owns all 100 shares of Target's only class of stock. Target's only assets are two parcels of land. Parcel 1 has a basis of $5,000 and Parcel 2 has a basis of $4,000. Target has no liabilities. On July 1 of Year 1, Parent sells all 100 shares of Target stock to A for $100 per share. Parent incurs no selling costs and A incurs no acquisition costs. On July 1, the value of Parcel 1 is $7,000 and the value of Parcel 2 is $3,000. A section 336(e) election is made.

(ii) *Consequences.* The sale of Target stock constitutes a qualified stock disposition. July 1 of Year 1 is the disposition date. Accordingly, pursuant to the section 336(e) election, for Federal income tax purposes, rather than treating Parent as selling the stock of Target to A, the following events are deemed to occur. Target is treated as if, on July 1, it sold all of its assets to an unrelated person in exchange for the ADADP of $10,000, which is allocated $7,000 to Parcel 1 and $3,000 to Parcel 2 (see §§ 1.336–3 and 1.338–6 for determination of amount and allocation of ADADP). Target recognizes gain of $2,000 on Parcel 1 and loss of $1,000 on Parcel 2. New Target is then treated as acquiring all its assets from an unrelated person in a single transaction in exchange for the amount of the AGUB of $10,000, which is allocated $7,000 to Parcel 1 and $3,000 to Parcel 2 (see §§ 1.336–4, 1.338–5, and 1.338–6 for determination of amount and allocation of AGUB). Old Target is treated as liquidating into Parent immediately thereafter, distributing the $10,000 deemed received in exchange for Parcel 1 and Parcel 2 in a transaction qualifying under section 332. Parent recognizes no gain or loss on the liquidation. A's basis in New Target stock is $100 per share, the amount paid for the stock.

Example 2. Sale of 80 percent of Target stock. (i) *Facts.* The facts are the same as in *Example 1* except that Parent only sells 80 shares of its Target stock to A and retains the other 20 shares.

(ii) *Consequences.* The results are the same as in *Example 1* except that Parent also is treated as purchasing from an unrelated person on July 2, the day after the disposition date, the 20 shares of Target stock (New Target stock) not sold to A, for their fair market value as determined under § 1.336–2(b)(1)(v) of $2,000 ($100 per share).

Example 3. Distribution of 100 percent of Target stock. (i) *Facts.* The facts are the same as in *Example 1* except that instead of on July 1 Parent selling 100 shares of Target stock to A, Parent distributes 100 shares to its shareholders, all of whom are unrelated to Parent, in a transaction that does not qualify under section 355. The value of Target stock on July 1 is $100 per share.

(ii) *Consequences.* The distribution of Target stock constitutes a qualified stock disposition. July 1 of Year 1 is the disposition date. Accordingly, pursuant to the section 336(e) election, for Federal income tax purposes, rather than treating Parent as distributing the stock of Target to its shareholders, the following events are deemed to occur. Target is treated as if, on July 1, it sold all of its assets to an unrelated person in exchange for the ADADP of $10,000, which is allocated $7,000 to Parcel 1 and $3,000 to Parcel 2 (see §§ 1.336–3 and 1.338–6 for determination of amount and allocation of ADADP). Target recognizes gain of $2,000 on Parcel 1 and loss of $1,000 on Parcel 2. Because Target's losses realized on the deemed asset disposition do not exceed Target's gains realized on the deemed asset disposition, Target can recognize all of the losses from the deemed asset disposition (see § 1.336–2(b)(1)(i)(B)). New Target is then treated as acquiring all its assets from an unrelated person in a single transaction in exchange for the amount of the AGUB of $10,000, which is allocated $7,000 to Parcel 1 and $3,000 to Parcel 2 (see §§ 1.336–4, 1.338–5, and 1.338–6 for determination of amount and allocation of AGUB). Old Target is treated as liquidating into Parent immediately thereafter, distributing the $10,000 deemed received in exchange for Parcel 1 and Parcel 2 in a transaction qualifying under section 332. Parent recognizes no gain or loss on the liquidation. On July 1, immediately after the deemed liquidation of Target, Parent is deemed to purchase from an unrelated person 100 shares of New Target stock and distribute those New Target shares to its shareholders. Parent recognizes no gain or loss on the deemed distribution of the shares under § 1.336–2(b)(1)(iv). The shareholders receive New Target stock as a distribution pursuant to section 301 and their basis in New Target stock received is its fair market value pursuant to section 301(d).

Example 4. Distribution of 80 percent of Target stock. (i) *Facts.* The facts are the same as in *Example 3* except that Parent distributes only 80 shares of Target stock to its shareholders and retains the other 20 shares.

(ii) *Consequences.* The results are the same as in *Example 3* except that Parent is treated as purchasing on July 1 only 80 shares of New Target stock and as distributing only 80 shares of New Target stock to its shareholders and then as purchasing (and retaining) on July 2, the day after the disposition date, 20 shares of New Target stock at their fair market value as determined under § 1.336–2(b)(1)(v), $2,000 ($100 per share).

Example 5. Part sale, part distribution. (i) *Facts.* Parent owns all 100 shares of Target's only class of stock. Target has two assets, both of which are buildings used in its business. Building 1 has a basis of $6,000 and Building 2 has a basis of $5,100. Target has no liabilities. On January 1 of Year 1, Parent sells 50 shares of Target to A for $88 per share. Parent incurred no selling costs with respect to the sale of Target stock and A incurred no acquisition costs with respect to the purchase. On July 1 of Year 1, when the value of Target stock is $120 per share, Parent distributes 30 shares of Target to Parent's unrelated shareholders. Parent retains the remaining 20 shares. On July 1, the value of Building 1 is $7,800 and the value of Building 2 is $4,200. A section 336(e) election is made.

(ii) *Consequences.* Because the sale of the 50 shares and the distribution of the 30 shares occurred within a 12-month disposition period, the 80 shares of Target stock sold and distributed were disposed of in a qualified stock disposition. July 1 of Year 1 is the disposition date. On July 1, Target is treated as if it sold its assets to an unrelated person in exchange for the ADADP, $10,000 ($8,000 ((50 shares × $88) + (30 shares × $120))/.80 ($9,600 (80 shares × $120)/$12,000 (100 shares × $120))), which is allocated to Buildings 1 and 2 in proportion to their fair market values, $6,500 to Building 1 and $3,500 to Building 2 (see §§ 1.336–3 and 1.338–6 for determination of amount and allocation of ADADP). Target realizes a gain of $500 on the deemed sale of Building 1 ($6,500–$6,000). Target realizes a loss of $1,600 on the deemed sale of Building 2 ($3,500–$5,100). Target recognizes all of its gains on the deemed asset disposition. However, because 30 shares of Target stock were distributed during the 12-month disposition period and there was a net loss of $1,100 realized on the deemed disposition of Buildings 1 and 2, $413 of the loss on the deemed sale is disallowed (see § 1.336–2(b)(1)(i)(B)(*2*) for the determination of the disallowed loss amount). New Target is then treated as acquiring all its assets from an unrelated person in a single transaction in exchange for the amount of the AGUB, $10,000 ($8,000 ((50 shares × $88) + (30 shares × $120)) × 1.25 ((100–0)/80)), which is allocated to Buildings 1 and 2 in proportion to their fair market values, $6,500 to Building 1 and $3,500 to Building 2 (see §§ 1.336–4, 1.338–5, and 1.338–6 for determination of amount and allocation of AGUB). Old Target is treated as liquidating into Parent immediately after the deemed asset disposition, distributing the $10,000 deemed received in exchange for its assets in a transaction qualifying under section 332. Parent recognizes no gain or loss on the liquidation. Parent is then deemed to purchase 30 shares of New Target stock from an unrelated person on July 1, and to distribute those 30 New Target shares to its shareholders. Parent recognizes no gain or loss on the deemed distribution of the 30 shares under § 1.336–2(b)(1)(iv). Parent is then deemed to purchase (and retain) on July 2, the day after the disposition date, 20 shares of New Target stock at their fair market value as determined under § 1.336–2(b)(1)(v), $2,000 ($100 per share (20 shares multiplied by $100 fair market value per share ($10,000 grossed-up amount realized on the sale and distribution of 80 shares of target stock divided by 100 shares)). A is treated as having purchased the 50 shares of New Target stock on January 1 of Year 1 at a cost of $88 per share, the same as if no section 336(e) election had been made. Parent's shareholders are treated as receiving New Target stock on July 1 of Year 1 as a distribution pursuant to section 301 and their basis in New Target stock received is $120 per share, its fair market value, pursuant to section 301(d), the same as if no section 336(e) election had been made.

Example 6. Sale of Target stock by consolidated group members. (i) *Facts.* Parent owns all of the stock of Sub and 50 of the 100 outstanding shares of Target stock. Sub owns the remaining 50 shares of Target stock. Target's assets have an aggregate basis of $9,000. Target has no liabilities. Parent, Sub, and Target file a consolidated Federal income tax return. On February 1 of Year 1, Parent sells 30 shares of its Target stock to A for $2,400. On March 1 of Year 1, Sub sells all 50 shares of its Target stock to B for $5,600. Neither Parent nor Sub incurred any selling costs. Neither A nor B incurred any acquisition costs. A section 336(e) election is made.

(ii) *Consequences.* Because Parent and Sub are members of the same consolidated group, their sale of Target stock is treated as made by one seller (see paragraph (g)(2) of this section), and the sales of Target stock constitute a qualified stock disposition. March 1 of Year 1 is the disposition date. For Federal income tax purposes, Parent and Sub are not treated as selling the stock of Target to A and B, respectively. Instead, the following events are deemed to occur. Old Target is treated as if, on March 1, it sold all its assets to unrelated person in exchange for the ADADP, $10,000 (see § 1.336–3 for determination of ADADP), recognizing a net gain of $1,000. New Target is then treated as acquiring all its assets from an unrelated person in a single transaction in exchange for the amount of the AGUB, $10,000 (see §§ 1.336–4 and 1.338–5 for the determination of AGUB). Old Target is treated as liquidating into Parent and Sub immediately thereafter, distributing the $10,000 deemed received in exchange for its assets in a transaction qualifying under section 332 (see § 1.1502–34). Neither Parent nor Sub recognizes gain or loss on the liquidation. Parent is then treated as purchasing from an unrelated person on March 2, the day after the disposition date, the 20 shares of Target stock (New Target stock) retained for their fair market value as determined under § 1.336–2(b)(1)(v), $2,000 ($100 per share). A is treated as having purchased 30 shares of New Target stock on February 1 of Year 1 at a cost of $2,400 ($80 per share), the same as if no section 336(e) election had been made. B is treated as having purchased 50 shares of New Target stock on March 1 of Year 1 at a cost of $5,600 ($112 per share), the same as if no section 336(e) election had been made.

Example 7. Sale of Target stock by non-consolidated group members. (i) *Facts.* The facts are the same as in *Example 6* except that Parent, Sub, and Target do not join in the filing of a consolidated Federal income tax return.

(ii) *Consequences.* Because Parent and Sub do not join in the filing of a consolidated Federal income tax return and no single seller sells, exchanges, or distributes Target stock meeting the requirements of section 1504(a)(2), the transaction does not constitute a qualified stock disposition. The section 336(e) election made with respect to the disposition of Target stock has no effect.

Example 8. Distribution of 80 percent of Target stock in complete redemption of a greater-than-50-percent shareholder. (i) *Facts.* A and B own 51 and 49 shares, respectively, of Seller's only class of stock. Seller owns all 100 shares of Target's only class of stock. Seller distributes 80 shares of Target stock to A in complete redemption of A's 51 shares of Seller in a transaction that does not qualify under section 355. A section 336(e) election is made.

(ii) *Consequences.* Prior to the redemption, Seller and A would be related persons because, under section 318(a)(2)(C), any stock of a corporation that is owned by Seller would be attributed to A because A owns 50 percent or more of the value of the stock of Seller. However, for purposes of §§ 1.336–1 through 1.336–5, the determination of whether Seller and A are related is made immediately after the redemption of A's stock. See §§ 1.336–1(b)(5)(iii) and 1.338–3(b)(3)(ii)(A). After the redemption, A no longer owns any stock of Seller. Accordingly, A and Seller are not related persons, as defined in § 1.336–1(b)(12), and the distribution of Target stock constitutes a qualified stock disposition. For Federal income tax purposes, rather than Seller distributing the stock of Target to A, the following is deemed to occur. Old Target is treated as if it sold its assets to an unrelated person. New Target is then treated as acquiring all its assets from an unrelated person in a single transaction. Immediately thereafter, Old Target is treated as liquidating into Seller in a transaction qualifying under section 332. Seller recognizes no gain or loss on the liquidation. Seller is then treated as purchasing 80 shares of New Target stock from an unrelated person and then distributing the 80 shares of New Target stock to A in exchange for A's 51 shares of Seller stock. Seller recognizes no gain or loss on the distribution of New Target stock pursuant to § 1.336–2(b)(1)(iv). Seller is then treated as purchasing from an unrelated person on the day after the disposition date the 20 shares of Target stock (New Target stock) retained for their fair market value as determined under § 1.336–2(b)(1)(v). The Federal income tax consequences to A are the same as if no section 336(e) election had been made.

Example 9. Pro-rata distribution of 80 percent of Target stock. (i) *Facts.* A and B own 60 and 40 shares, respectively, of Seller's only class of stock. Seller owns all 100 shares of Target's only class of stock. Seller distributes 48 shares of Target stock to A and 32 shares of Target stock to B in a transaction that does not qualify under section 355. A section 336(e) election is made.

(ii) *Consequences.* Any stock of a corporation that is owned by Seller would be attributed to A under section 318(a)(2)(C) because, after the distribution, A owns 50 percent or more of the value of the stock of Seller. Therefore, after the distribution, A and Seller are related persons, as defined in § 1.336–1(b)(12), and the distribution of Target stock to A is not a disposition. Because only 32 percent of Target stock was sold, exchanged, or distributed to unrelated persons, there has not been a qualified stock disposition. Accordingly, the section 336(e) election made with respect to the distribution of Target stock has no effect.

§ 1.336–3 Aggregate deemed asset disposition price; various aspects of taxation of the deemed asset disposition.

(a) *Scope.* This section provides rules under section 336(e) to determine the aggregate deemed asset disposition price (ADADP) for Target. ADADP is the amount for which old Target is deemed to have sold all of its assets in the deemed asset disposition. ADADP is allocated among Target's assets in the same manner as the aggregate deemed sale price (ADSP) is allocated under § 1.338–6 to determine the amount for which each asset is deemed to have been sold. If a subsequent increase or decrease is required under general principles of tax law with respect to an element of ADADP, the redetermined ADADP is allocated among Target's assets in the same manner as redetermined ADSP is allocated under § 1.338–7.

(b) *Determination of ADADP*—(1) *General rule.* ADADP is the sum of—

(i) The grossed-up amount realized on the sale, exchange, or distribution of recently disposed stock of Target; and

(ii) The liabilities of old Target.

(2) *Time and amount of ADADP*—(i) *Original determination.* ADADP is initially determined at the beginning of the day after the disposition date of Target. General principles of tax law apply in determining the timing and amount of the elements of ADADP.

(ii) *Redetermination of ADADP.* ADADP is redetermined at such time and in such amount as an increase or decrease would be required, under general principles of tax law, for the elements of ADADP. For example, ADADP is redetermined because of an increase or decrease in the amount realized on the sale or exchange of recently disposed stock of Target or because liabilities not originally taken into account in determining ADADP are subsequently taken into account. Increases or decreases with respect to the elements of ADADP result in the reallocation of ADADP among Target's assets in the same manner as ADSP under § 1.338–7.

(c) *Grossed-up amount realized on the disposition of recently disposed stock of Target*—(1) *Determination of amount.* The grossed-up amount realized on the disposition of recently disposed stock of Target is an amount equal to—

(i) The sum of —

(A) With respect to recently disposed of stock of Target that is not distributed in the qualified stock disposition, the amount realized on the sale or exchange of such recently disposed stock of Target, determined as if seller or S corporation shareholders were required to use old Target's accounting methods and characteristics and the installment method were not available and determined without regard to the selling costs taken into account under paragraph (c)(1)(iii) of this section, and

(B) With respect to recently disposed of stock of Target that is distributed in the qualified stock disposition, the fair market value of such recently disposed stock of Target determined on the date of each distribution;

(ii) Divided by the percentage of Target stock (by value, determined on the disposition date) attributable to the recently disposed stock;

(iii) Less the selling costs incurred by seller or S corporation shareholders in connection with the sale or exchange of recently disposed stock that reduce its amount realized on the sale or exchange of the stock (for example, brokerage commissions and any similar costs to sell the stock).

(2) *Example.* The following example illustrates this paragraph (c):

Example. Target has two classes of stock outstanding, voting common stock and preferred stock described in section 1504(a)(4). Seller owns all 100 shares of each class of stock. On March 1 of Year 1, Seller sells 10 shares of Target voting common stock to A for $75. On April 1 of Year 2, Seller distributes 15 shares of Target voting common stock with a fair market value of $120 to B. On May 1 of Year 2, Seller distributes 10 shares of Target voting common stock with a fair market value of $110 to C. On July 1 of Year 2, Seller sells 55 shares of Target voting common stock to D for $550. On July 1 of Year 2, the fair market value of all the Target voting common stock is $1,000 ($10 per share) and the fair market value of all the preferred stock is $600 ($6 per share). Seller incurs $20 of selling costs with respect to the sale to A and $60 of selling costs with respect to the sale to D. The grossed-up amount realized on the sale, exchange, or distribution of recently disposed stock of Target is calculated as follows: The sum of the amount realized on the sale or exchange of recently disposed stock sold or exchanged (without regard to selling costs) and the fair market value of the recently disposed stock distributed is $780 ($120 + $110 + $550) (the 10 shares sold to A on March 1 of Year 1 is not recently disposed stock because it was not disposed of during the 12-month disposition period). The percentage of Target stock by value on the disposition date attributable to recently disposed stock equals 50% ($800 (80 shares of recently disposed stock × $10, the fair market value of each share of Target common stock on the disposition date)/$1,600 ($1,000 (the total value of Target's common stock on the disposition date) + $600 (the total value of Target's preferred stock on the disposition date))). The grossed-up amount realized equals $1,500 (($780/.50) − $60 selling costs).

(d) *Liabilities of old Target*—(1) *In general.* In general, the liabilities of old Target are measured as of the beginning of the day after the disposition date. However, if a Target for which a section 336(e) election is made engages in a transaction outside the ordinary course of business on the disposition date after the event resulting in the qualified stock disposition of Target or a higher-tier corporation, Target and all persons related thereto (either before or after the qualified stock disposition) under section 267(b) or section 707 must treat the transaction for all Federal income tax purposes as occurring at the beginning of the day following the transaction and after the deemed disposition by old Target. In order to be taken into account in ADADP, a liability must be a liability of Target that is properly taken into account in amount realized under general principles of tax law that would apply if old Target had sold its assets to an unrelated person for consideration that included the discharge of its liabilities. See § 1.1001–2(a). Such liabilities may include liabilities for the tax consequences resulting from the deemed asset disposition.

(2) *Time and amount of liabilities.* The time for taking into account liabilities of old Target in determining ADADP and the amount of the liabilities taken into account is determined as if old Target had sold its assets to an unrelated person for consideration that included the discharge of the liabilities by the unrelated person. For example, if no amount of a Target liability is properly taken into account in amount realized as of the beginning of the day after the disposition date, the liability is not initially taken into account in determining ADADP, but it may be taken into account at some later date.

(e) *Deemed disposition tax consequences.* Gain or loss on each asset in the deemed asset disposition is computed by reference to the ADADP allocated to that asset. ADADP is allocated in the same manner as is ADSP under § 1.338–6. Although deemed disposition tax consequences may increase or decrease ADADP by creating or reducing a tax liability, the amount of the tax liability itself may be a function of the size of the deemed disposition tax consequences. Thus, these determinations may require trial and error computations.

(f) *Other rules apply in determining ADADP.* ADADP may not be applied in such a way as to contravene other applicable rules. For example, a capital loss cannot be applied to reduce ordinary income in calculating the tax liability on the deemed asset disposition for purposes of determining ADADP.

(g) *Examples.* The following examples illustrate this section.

Example 1. (i) *Facts.* The facts are the same as in *Example 1* of § 1.336–2(b)(1)(i)(B)(*3*), that is, Parent owns 60 of the 100 outstanding shares of the common stock of Seller, Seller's only class of stock outstanding. The remaining 40 shares of the common stock of Seller are held by shareholders unrelated to Seller or each other. Seller owns 95 of the 100 outstanding shares of Target common stock, and all 100 shares of Target preferred stock that is described in section 1504(a)(4). The remaining 5 shares of Target common stock are owned by A. On January 1 of Year 1, Seller sells 72 shares of Target common stock to B for $3,520. On July 1 of Year 1, Seller distributes 12 shares of Target common stock to Parent and 8 shares to its unrelated shareholders in a distribution described in section 301. Seller retains 3 shares of Target common stock and all 100 shares of Target preferred stock immediately after July 1. The value of Target common stock on July 1 is $60 per share. The value of Target preferred stock on July 1 is $36 per share. Target has three assets, Asset 1, a Class IV asset, with a basis of $1,776 and a fair market value of $2,000, Asset 2, a Class V asset, with a basis of $2,600 and a fair market value of $2,750, and Asset 3, a Class V asset, with a basis of $3,900 and a fair market value of $3,850. Seller incurred no selling costs on the sale of the 72 shares of Target common stock to B. Target has no liabilities. A section 336(e) election is made.

(ii) *Determination of ADADP.* The ADADP on the deemed asset disposition of Target is determined as follows. The grossed-up amount realized on the sale, exchange, or distribution of recently disposed stock of Target is $8,000, the sum of $3,520, the amount realized on the sale to B of the 72 shares of Target common stock and $480, the fair market value on the date distributed of the 8 shares of Target common stock distributed to Seller's unrelated shareholders in the qualified stock disposition, divided by .50, the percentage of Target stock by value, determined on the disposition date, attributable to the recently disposed stock ($4,800 (80 shares of Target common stock disposed of in the qualified stock disposition × $60, the value of a share of Target common stock on the disposition date) divided by $9,600 ((100, the total number of shares of Target common stock × $60, the value of a share of Target common stock on the disposition date) + (100, the total number of shares of Target preferred stock × $36, the value of a share of Target preferred stock on the disposition date))), minus $0, Seller's selling costs in connection with the sale of the 72 shares of Target common stock sold to B. The $8,000 grossed-up amount realized on the sale, exchange, or distribution of recently disposed stock of Target is then added to the liabilities of Old Target, $0, to arrive at the ADADP, $8,000.

(iii) *Allocation of ADADP.* The ADADP of $8,000 is allocated first to Asset 1, the Class IV asset, but not in excess of Asset 1's fair market value, $2,000. The remaining ADADP of $6,000 is allocated between Assets 2 and 3, both Class V assets, in proportion to their fair market values, but not in excess of their fair market values. Because the total fair market value of Assets 2 and 3, $6,600, exceeds the ADADP remaining after allocation of a portion of the ADADP to Asset 1, the $6,000 remaining ADADP is allocated to Assets 2 and 3 in proportion to their respective fair market values. Accordingly, $2,500 is allocated to Asset 2 ($6,000 × ($2,750/($2,750 + $3,850))) and $3,500 is allocated to Asset 3 ($6,000 × ($3,850/($2,750 + $3,850))).

Example 2. (i) *Facts.* The facts are the same as in *Example 1* except that Asset 2 is the stock of Target Subsidiary, a corporation of which Target owns 100 of the 110 shares of common stock, the only outstanding class of Target Subsidiary stock. The remaining 10 shares of Target Subsidiary stock are owned by D. The value of Target Subsidiary stock on July 1 is $27.50 per share. Target Subsidiary has two assets, Asset 4, a Class IV asset, with a basis of $800 and a fair market value of $1,000, and Asset 5, a Class IV asset, with a basis of $2,200 and a fair market value of $2,025. Target Subsidiary has no liabilities. A section 336(e) election with respect to Target Subsidiary is also made.

(ii) *Determination of ADADP.* The ADADP on the deemed asset disposition of Target Subsidiary is determined as follows. The grossed-up amount realized on the sale, exchange, or distribution of recently disposed stock of Target Subsidiary is $2,750, ($2,500 ADADP allocable to Asset 2, the 100 shares of the stock of Target Subsidiary owned by Target, divided by .909, the percentage of Target Subsidiary stock by value, determined on the disposition date, attributable to the recently disposed stock ($2,750 (100 shares of the stock of Target Subsidiary deemed disposed in the qualified stock disposition × $27.50, the value of a share of Target Subsidiary stock on the disposition date) divided by $3,025 (110, the total number of shares of Target Subsidiary stock × $27.50, the value of a share of Target Subsidiary stock on the disposition date)), minus $0, Seller's selling costs in connection with the deemed sale of the 100 shares of Target Subsidiary stock). The $2,750 grossed-up amount realized on the sale, exchange, or distribution of recently disposed stock of Target Subsidiary is then added to the liabilities of Old Target Subsidiary, $0, to arrive at the ADADP of Target Subsidiary, $2,750.

(iii) *Allocation of ADADP.* Because Assets 4 and 5 are each assets of the same class, and the total fair market value of Assets 4 and 5 exceeds the $2,750 ADADP of Target Subsidiary, the $2,750 ADADP is allocated to Assets 4 and 5 in proportion to their respective fair market values. Accordingly, $909 is allocated to Asset 4 ($2,750 × ($1,000/($1,000 + $2,025))) and $1,841 is allocated to Asset 5 ($2,750 × ($2,025/($1,000 + $2,025))).

Example 3. (i) Seller owns all 100 of the outstanding shares of the common stock of Target, the only class of Target stock outstanding. On January 1 of Year 1, Seller sells 10 shares of Target stock to A for $6,000 ($600 per share). On August 1 of Year 1, Seller distributes the remaining 90 shares of Target stock to its unrelated shareholders in a transaction described in section 355(d)(2) or (e)(2). The value of Target stock on August 1 is $560 per share. Target has two assets, Asset 1, which is stock in trade of Target, a Class IV asset, with a basis of $15,000 and a value of $50,000, and Asset 2, which is stock in a publicly traded, unrelated corporation, a Class II asset, with a basis of $38,000 and a value of $16,000. Target has no liabilities other than any liabilities for Federal tax on account of the deemed asset disposition. Assume Target's Federal tax rate for any gain or income on the deemed asset disposition is 34 percent. Seller had no selling costs in connection with its sale of the 10 shares of Target stock. A section 336(e) election is made.

(ii) Because at least 80 percent of Target stock was disposed of (within the meaning of § 1.336–1(b)(5)) by Seller during the 12-month disposition period, a qualified stock disposition occurred. August 1 of Year 1 is the disposition date. Accordingly, pursuant to the section 336(e) election, for Federal income tax purposes, Target is treated as if, on August 1, it sold all of its assets to an unrelated person in exchange for the ADADP.

(iii) Under these facts, although a portion of the qualified stock disposition was the result of a stock distribution, because the grossed-up amount realized on the disposition of recently disposed stock of Target, $56,400 (($6,000 + ($560 × 90))/1) exceeds Target's total basis in its assets, none of the losses realized on the deemed asset disposition are disallowed under § 1.336–2(b)(2)(i)(B)(*2*). Because the grossed-up amount realized on the disposition of recently disposed stock of Target exceeds the value of Asset 2, the ADADP allocated to Asset 2 equals the value of Asset 2, $16,000, and Target realizes a $22,000 loss on the deemed disposition of Asset 2. None of this loss is disallowed under section 1091. See § 1.336–2(h)(2)(ii)(C). Accordingly, Target recognizes a $22,000 loss on the deemed disposition of Asset 2.

(iv) The ADADP allocated to Asset 1 is determined as follows (for purposes of this *Example 3*, TotADADP is the total ADADP for the deemed asset disposition, A1ADADP is the tentative amount of the total ADADP allocated to Asset 1, A2ADADP is the amount of the total ADADP allocated to Asset 2, G is the grossed-up amount realized on the disposition of recently disposed stock of Target, L is Target's liabilities other than Target's tax liability for the deemed disposition tax consequences, T_R is the applicable tax rate, and B1 is the adjusted basis of Asset 1 and B2 is the adjusted basis of Asset 2):

TotADADP = G + L + (T_R × (TotADADP − B1 − B2))
A1ADADP = TotADADP − A2ADADP
A2ADADP = $16,000
A1ADADP = TotADADP − $16,000
G = ($6,000 + ($560 × 90))/1
G = $56,400
TotADADP = $56,400 + 0 + (.34 × (TotADADP − $15,000 − $38,000))
TotADADP = $56,400 + .34TotADADP − $18,020
.66TotADADP = $38,380
TotADADP = $58,152
A1ADADP = $42,152

(v) Because A1ADADP, $42,152, does not exceed the value of Asset 1, $50,000, the

entire A1ADADP is allocated to Asset 1. Old Target thus realizes and recognizes a gain of $27,152 on the deemed disposition of Asset 1 ($42,152 − $15,000).

§ 1.336–4 Adjusted grossed-up basis.

(a) *Scope.* Except as provided in paragraphs (b) and (c) of this section or as the context otherwise requires, the principles of paragraphs (b) through (g) of § 1.338–5 apply in determining the adjusted grossed-up basis (AGUB) for target and the consequences of a gain recognition election. AGUB is the amount for which new target is deemed to have purchased all of its assets in the deemed purchase under § 1.336–2(b)(1)(ii) or the amount for which old target is deemed to have purchased all of its assets in the deemed purchase under § 1.336–2(b)(2)(ii). AGUB is allocated among target's assets in accordance with § 1.338–6 to determine the price at which the assets are deemed to have been purchased. If a subsequent increase or decrease with respect to an element of AGUB is required under general principles of tax law, redetermined AGUB is allocated among target's assets in accordance with § 1.338–7.

(b) *Modifications to the principles in § 1.338–5.* Solely for purposes of applying §§ 1.336–1 through 1.336–4, the principles of § 1.338–5 are modified as follows—

(1) *Purchasing corporation; purchaser.* Any reference to the *purchasing corporation* shall be treated as a reference to a purchaser, as defined in § 1.336–1(b)(2).

(2) *Acquisition date; disposition date.* Any reference to the *acquisition date* shall be treated as a reference to the disposition date, as defined in § 1.336–1(b)(8).

(3) *Section 338 election; section 338(h)(10) election; section 336(e) election.* Any reference to a *section 338 election* or a *section 338(h)(10) election* shall be treated as a reference to a section 336(e) election, as defined in § 1.336–1(b)(11).

(4) *New target; old target.* In the case of a disposition described in section 355(d)(2) or (e)(2), any reference to *new target* shall be treated as a reference to *old target* in its capacity as the purchaser of assets pursuant to the section 336(e) election.

(5) *Recently purchased stock; recently disposed stock.* Any reference to *recently purchased stock* shall be treated as a reference to recently disposed stock, as defined in § 1.336–1(b)(17). In the case of a distribution of stock, for purposes of determining the purchaser's grossed-up basis of recently disposed stock, the purchaser's basis in recently disposed stock shall be deemed to be such stock's fair market value on the date it was acquired.

(6) *Nonrecently purchased stock; nonrecently disposed stock.* Any reference to *nonrecently purchased stock* shall be treated as a reference to nonrecently disposed stock, as defined in § 1.336–1(b)(18).

(c) *Gain recognition election*—(1) *In general.* Any holder of nonrecently disposed stock of target may make a gain recognition election. The gain recognition election is irrevocable. Each owner of nonrecently disposed stock determines its basis amount, and therefore the gain recognized pursuant to the gain recognition election, by applying §§ 1.338–5(c) and 1.338–5(d)(3)(ii) by reference to its own recently disposed stock and nonrecently disposed stock, and not by reference to all recently disposed stock and nonrecently disposed stock.

(2) *80-percent purchaser.* If a section 336(e) election is made for target, any 80-percent purchaser and all persons related to the 80-percent purchaser are automatically deemed to have made a gain recognition election for its nonrecently disposed target stock.

(3) *Non-80-percent purchaser.* If not automatically deemed made under paragraph (c)(2) of this section, a gain recognition election is made by a non-80-percent purchaser providing, on or before the due date for filing the section 336(e) election statement by the appropriate party, a gain recognition election statement, as described in paragraph (c)(4) of this section, to the appropriate party. If seller and target are members of the same consolidated group, seller is the appropriate party and the common parent of the consolidated group must retain the gain recognition election statement. If seller and target are members of the same affiliated group but do not join in the filing of a consolidated Federal income tax return, or if target is an S corporation, target is the appropriate party and target must retain the gain recognition election statement. If a non-80-percent purchaser makes a gain recognition election, all related persons to the non-80-percent purchaser must also make a gain recognition election. Otherwise, the gain recognition election for the non-80-percent purchaser will have no effect.

(4) *Gain recognition election statement.* A gain recognition election statement must include the following declarations (or substantially similar declarations):

(i) [Insert name, address, and taxpayer identifying number of person for whom gain recognition election is actually being made] has elected to recognize gain under § 1.336–4(c) with respect to [his, hers, or its] nonrecently disposed stock.

(ii) [Insert name of person for whom gain recognition election is actually being made] agrees to report any gain under the gain recognition election on [his, hers, or its] Federal income tax return (including an amended return, if necessary) for the taxable year that includes the disposition date of [insert name and employer identification number of target].

(d) *Examples.* The following examples illustrate the provisions of this section.

Example 1. On January 1 of Year 1, Seller owns 85 shares of Target stock, A owns 8 shares, B owns 4 shares, and C owns the remaining 3 shares. Each of A's 8 shares, B's 4 shares, and C's 3 shares have a $5 basis. Assume that Target has no liabilities. On July 1 of Year 2, Seller sells 70 shares of Target stock to A for $10 per share. On September 1 of Year 2, Seller sells 5 shares of Target stock to B and 5 shares of Target stock to C for $14 per share. A section 336(e) election is made. A does not make a gain recognition election. A incurs $25 of acquisition costs and B and C each incur $10 of acquisition costs in connection with their respective Year 2 purchases. These costs are capitalized in the basis of Target stock. September 1 of Year 2 is the disposition date. Because A owns at least 10 percent of Target stock on September 1, the disposition date, and A's original 8 shares of Target stock owned on January 1 of Year 1 were not disposed of in the qualified stock disposition, A's original 8 shares of Target stock are nonrecently disposed stock. Although B's original 4 shares and C's original 3 shares were not disposed of in the qualified stock disposition, because neither B nor C owns, with the application of section 318(a), other than section 318(a)(4), at least 10 percent of the total voting power or value of Target stock on the disposition date, their original shares are not nonrecently disposed stock. The grossed-up basis of recently disposed Target stock is $1,011, determined as follows: The purchasers' (A, B, and C) aggregate basis in the recently disposed target stock, determined without regard to acquisition costs, is $840 ((70 × $10) + (5 × $14) + (5 × $14)). This amount is multiplied by a fraction, the numerator of which is 100 minus 8, the percentage of Target stock that is nonrecently disposed stock, and the denominator of which is 80, the percentage of Target stock attributable to recently disposed stock ($840 × 92/80 = $966). This amount is then increased by the $45 of acquisition costs incurred by A, B, and C to arrive at the $1,011 grossed-up basis of recently disposed Target stock ($966 + $45 = $1,011). New Target's AGUB is $1,051, the sum of $1,011, the grossed-up basis of recently disposed Target stock and $40 (8 × $5), A's basis in his nonrecently disposed Target stock.

Example 2. The facts are the same as in *Example 1* except that A makes a gain recognition election. Pursuant to the gain

recognition election, A is treated as if he sold on September 1 of Year 2, the disposition date, his 8 shares of nonrecently disposed Target stock for the basis amount, and A's basis in nonrecently disposed target stock immediately after the deemed sale is the basis amount. A's basis amount equals his basis in his recently disposed Target stock without regard to acquisition costs, $700 (70 × $10), multiplied by a fraction, the numerator of which is 100 minus 8, the percentage of Target stock, by value, determined on the disposition date, which is A's nonrecently disposed Target stock, and the denominator of which is 70, the percentage of Target stock, by value, determined on the disposition date, which is A's recently disposed stock, which is then multiplied by a fraction, the numerator of which is 8, the percentage of Target stock, by value, determined on the disposition date, attributable to A's nonrecently disposed Target stock and the denominator of which is 100 minus the numerator amount. Accordingly, A's basis amount is $80 ($700 × 92/70 × 8/92). A therefore recognizes gain of $40 under the gain recognition election ($80 basis amount minus A's $40 basis in his nonrecently disposed stock prior to the gain recognition election). New Target's AGUB is $1,091, the sum of $1,011, the grossed-up basis of all recently disposed Target stock and $80, A's basis in his nonrecently disposed Target stock pursuant to the gain recognition election.

Example 3. (i) The facts are the same as in *Example 3* of § 1.336–3(g), that is, Seller owns all 100 of the outstanding shares of the common stock of Target, the only class of Target stock outstanding. On January 1 of Year 1, Seller sells 10 shares of Target stock to A for $6,000 ($600 per share). On August 1 of Year 1, Seller distributes the remaining 90 shares of Target stock to its unrelated shareholders in a transaction described in section 355(d)(2) or (e)(2). The value of Target stock on August 1 is $560 per share. Target has two assets, Asset 1, which is stock in trade of Target, a Class IV asset, with a basis of $15,000 and a value of $50,000, and Asset 2, which is stock in a publicly traded, unrelated corporation, a Class II asset, with a basis of $38,000 and a value of $16,000. Target has no liabilities other than any liabilities for Federal tax on account of the deemed asset disposition. Assume Target's Federal tax rate for any gain or income on the deemed asset disposition is 34 percent. Seller had no selling costs in connection with its sale of the 10 shares of Target stock. A section 336(e) election is made. In addition, A incurred $100 of acquisition costs with respect to the purchase of the 10 shares of Target stock. Target's AGUB in the assets deemed acquired pursuant to § 1.336–2(b)(2)(ii)(B) is determined as follows (for purposes of this *Example 3*, GRD is the grossed-up basis of recently disposed stock, BND is the basis in nonrecently disposed stock, TotL is Target's total liabilities, including Target's tax liability, and X is the A's total acquisition costs):

AGUB = GRD + BND + TotL

GRD = ($6,000 + ($560 × 90)) × ((100 − 0)/100) + X

GRD = ($6,000 + $50,400) × (100/100) + $100

GRD = $56,500

BND = $0

TotL = .34 × ($27,152 (Target's gain recognized on deemed disposition of Asset 1) − $22,000 (Target's loss recognized on deemed disposition of Asset 2)) (see *Example 3* of § 1.336–3(g) for determination of Target's gain and loss recognized on deemed disposition of Assets 1 and 2)

TotL = $1,752

AGUB = $56,500 + $0 + $1,752

AGUB = $58,252

(ii) The AGUB allocated to Asset 2 is $16,000, the value of Asset 2. Because the excess of the total AGUB, $58,252, over the portion of the AGUB allocated to Asset 2, $16,000, does not exceed the value of Asset 1, the AGUB allocated to Asset 1 is such excess, $42,252.

§ 1.336–5 Effective/applicability date.

The provisions of §§ 1.336–1 through 1.336–4 apply to any qualified stock disposition for which the disposition date is on or after May 15, 2013.

■ **Par. 3.** Section 1.338–0 is amended by adding entries for §§ 1.338–1(e) and 1.338–5(h) to read as follows:

§ 1.338–0 Outline of topics.

* * * * *

§ 1.338–1 General principles; status of old target and new target.

* * * * *

(e) *Effective/applicability date.*

* * * * *

§ 1.338–5 Adjusted grossed-up basis.

* * * * *

(h) *Effective/applicability date.*

* * * * *

■ **Par. 4.** Section 1.338–1 is amended by adding three new sentences after the parenthetical that follows the third sentence of paragraph (a)(1), by revising the first sentence in paragraph (c)(1), and adding a new paragraph (e) to read as follows:

§ 1.338–1 General principles; status of old target and new target.

(a) * * *

(1) * * * However, if, as a result of the deemed purchase of old target's assets pursuant to a section 336(e) election, there would be both a qualified stock purchase and a qualified stock disposition (as defined in § 1.336–1(b)(6)) of the stock of a subsidiary of target, neither a section 338(g) election nor a section 338(h)(10) election may be made with respect to the qualified stock purchase of the subsidiary. Instead, a section 336(e) election may be made with respect to such purchase. See § 1.336–1(b)(6)(ii). * * *

* * * * *

(c) * * *

(1) *In general.* The rules of this paragraph (c) apply for purposes of applying the regulations under sections 336(e), 338, and 1060. * * *

* * * * *

(e) *Effective/applicability date.* Paragraphs (a)(1) and (c)(1) of this section are applicable to any qualified stock disposition for which the disposition date (as defined in § 1.336–1(b)(8)) is on or after May 15, 2013.

■ **Par. 5.** Section 1.338–5 is amended by revising the first sentence in paragraph (d)(3)(ii) and by adding a new paragraph (h) to read as follows:

§ 1.338–5 Adjusted grossed-up basis.

* * * * *

(d) * * *

(3) * * *

(ii) *Basis amount.* The basis amount is equal to the amount in paragraphs (c)(1) and (2) of this section (the purchasing corporation's grossed-up basis in recently purchased target stock at the beginning of the day after the acquisition date determined without regard to the acquisition costs taken into account in paragraph (c)(3) of this section) multiplied by a fraction the numerator of which is the percentage of target stock (by value, determined on the acquisition date) attributable to the purchasing corporation's nonrecently purchased target stock and the denominator of which is 100 percent minus the numerator amount. * * *

* * * * *

(h) *Effective/applicability date.* Paragraph (d)(3)(ii) of this section is applicable to any qualified stock purchase or qualified stock disposition (as defined in § 1.336–1(b)(6)) for which the acquisition date or disposition date (as defined in § 1.336–1(b)(8)), respectively, is on or after May 15, 2013.

■ **Par. 6.** Section 1.901–2 is amended by redesignating paragraph (f)(5) as paragraph (f)(6), adding a new paragraph (f)(5), and revising the first sentence in paragraph (h)(4) to read as follows:

§ 1.901–2 Income, war profits, or excess profits tax paid or accrued.

* * * * *

(f) * * *

(5) *Allocation of foreign taxes in connection with elections under section 336(e) or 338.* For rules relating to the allocation of foreign taxes in connection with elections made pursuant to section 336(e), see § 1.336–2(g)(3)(ii). For rules relating to the allocation of foreign taxes in connection with elections made pursuant to section 338, see § 1.338–9(d).

* * * * *

(h) * * *

(4) Paragraphs (f)(3), (f)(4), and (f)(6) of this section apply to foreign taxes

paid or accrued in taxable years beginning after February 14, 2012.

* * *

■ **Par. 7.** Section 1.1502–13 is amended by:

■ 1. Revising the heading of paragraph (f)(5)(ii)(C).

■ 2. Revising the first sentence in paragraph (f)(5)(ii)(C)(*1*).

■ 3. Adding a new sentence at the end of paragraph (m).

The revisions and addition read as follows:

§ 1.1502–13 Intercompany transactions.

* * * * *

(f) * * *

(5) * * *

(ii) * * *

(C) *Section 338(h)(10) and Section 336(e).*— (*1*) *In general.* This paragraph (f)(5)(ii)(C) applies to a deemed liquidation of T under section 332 as the result of an election under section 338(h)(10) or section 336(e). * * *

* * * * *

(m) *Effective/applicability date.* * * * Paragraph (f)(5)(ii)(C) of this section is applicable to any qualified stock disposition (as defined in § 1.336–1(b)(6)) for which the disposition date (as defined in § 1.336–1(b)(8)) is on or after May 15, 2013.

* * * * *

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

Approved: May 9, 2013.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2013–11522 Filed 5–10–13; 4:15 pm]

BILLING CODE 4830–01–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4022

Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulation on Benefits Payable in Terminated Single-Employer Plans to prescribe interest assumptions under the regulation for valuation dates in June 2013. The interest assumptions are used for paying benefits under terminating single-employer plans covered by the pension insurance system administered by PBGC.

DATES: Effective June 1, 2013.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion (*Klion.Catherine@pbgc.gov*), Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: PBGC's regulation on Benefits Payable in Terminated Single-Employer Plans (29 CFR part 4022) prescribes actuarial assumptions—including interest assumptions—for paying plan benefits under terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions in the regulation are also published on PBGC's Web site (*http://www.pbgc.gov*).

PBGC uses the interest assumptions in Appendix B to Part 4022 to determine whether a benefit is payable as a lump sum and to determine the amount to pay. Appendix C to Part 4022 contains interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using PBGC's historical methodology. Currently, the rates in Appendices B and C of the benefit payment regulation are the same.

The interest assumptions are intended to reflect current conditions in the financial and annuity markets. Assumptions under the benefit payments regulation are updated monthly. This final rule updates the benefit payments interest assumptions for June 2013.[1]

The June 2013 interest assumptions under the benefit payments regulation will be 0.75 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. In comparison with the interest assumptions in effect for May 2013, these interest assumptions represent a decrease of 0.25 percent in the immediate annuity rate and are otherwise unchanged.

PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect current market conditions as accurately as possible.

Because of the need to provide immediate guidance for the payment of benefits under plans with valuation dates during June 2013, PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

In consideration of the foregoing, 29 CFR part 4022 is amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4022 continues to read as follows:

[1] Appendix B to PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) prescribes interest assumptions for valuing benefits under terminating covered single-employer plans for purposes of allocation of assets under ERISA section 4044. Those assumptions are updated quarterly.

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. In appendix B to part 4022, Rate Set 236, as set forth below, is added to the table.

Appendix B to Part 4022—Lump Sum Interest Rates for PBGC Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*	*	*	*	*	*	*	*
236	6–1–13	7–1–13	0.75	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 236, as set forth below, is added to the table.

Appendix C to Part 4022—Lump Sum Interest Rates for Private-Sector Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*	*	*	*	*	*	*	*
236	6–1–13	7–1–13	0.75	4.00	4.00	4.00	7	8

Issued in Washington, DC, on this 9th day of May 2013.

Leslie Kramerich,

Acting Chief Policy Officer, Pension Benefit Guaranty Corporation.

[FR Doc. 2013–11557 Filed 5–14–13; 8:45 am]

BILLING CODE 7709–01–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy (DoN) is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (DAJAG) (Admiralty and Maritime Law) has determined that USS SOMERSET (LPD 25) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

DATES: This rule is effective May 15, 2013 and is applicable beginning April 18, 2013.

FOR FURTHER INFORMATION CONTACT: Lieutenant Jocelyn Loftus-Williams, JAGC, U.S. Navy, Admiralty Attorney, (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave. SE., Suite 3000, Washington Navy Yard, DC 20374–5066, telephone 202–685–5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the DoN amends 32 CFR Part 706.

This amendment provides notice that the DAJAG (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS SOMERSET (LPD 25) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Rule 27 (a)(i) and (b)(i), pertaining to the placement of all-round task lights in a vertical line; Annex I, paragraph 3(a), pertaining to the horizontal distance between the forward and after masthead lights; and Annex I, paragraph 2(k) as described in Rule 30 (a)(i), pertaining to the vertical separation between anchor lights. The DAJAG (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

For the reasons set forth in the preamble, amend part 706 of title 32 of the CFR as follows:

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

■ 1. The authority citation for part 706 continues to read:

Authority: 33 U.S.C. 1605.

■ 2. Section 706.2 is amended as follows:

■ A. In Table Three by adding, in alpha numerical order, by vessel number, an entry for USS SOMERSET (LPD 25); and

■ B. In Table Four, paragraph 20, by adding, in alpha numerical order, by vessel number, an entry for USS SOMERSET (LPD 25); and

■ C. In Table Five by adding, in alpha numerical order, by vessel number, an entry for USS SOMERSET (LPD 25).

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE THREE

Vessel	Number	Masthead lights arc of visibility; rule 21(a)	Side lights arc of visibility; rule 21(b)	Stern light arc of visibility; rule 21(c)	Side lights distance inboard of ship's sides in meters 3(b) Annex 1	Stern light, distance forward of stern in meters; rule 21(c)	Forward anchor light, height above hull in meters; 2(k) Annex 1	Anchor lights relationship of aft light to forward light in meters 2(k) Annex 1
*	*	*	*	*	*	*		*
USS SOMERSET ..	LPD 25	.....	.....	.....	.....	.....	.....	1.64 below.
*	*	*	*	*	*	*		*

* * * * * 20. * * *

TABLE FOUR

Vessel	Number	Angle in degrees of task lights off vertical as viewed from directly ahead or astern
*	*	*
USS SOMERSET	LPD 25	10

* * * * *

TABLE FIVE

Vessel	Number	Masthead lights not over all other lights and obstructions Annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light Annex I, sec. 3(a)	Percentage horizontal separation attained
*	*	*	*	*	*
USS SOMERSET	LPD 25	.....	.....	X	71
*	*	*	*	*	*

Approved: April 18, 2013.

A.B. Fischer,

Commander, JAGC, U.S. Navy, Deputy Assistant Judge Advocate, General (Admiralty and Maritime Law).

Dated: April 25, 2013.

C.K. Chiappetta,

Lieutenant Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2013–10778 Filed 5–14–13; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2013–0052]

RIN 1625–AA08

Special Local Regulation; Low Country Splash, Wando River, Cooper River, and Charleston Harbor; Charleston, SC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a special local regulation on the waters of the Wando River, Cooper River, and Charleston Harbor in Charleston, South Carolina during the Low Country Splash on June 1, 2013. This special local regulation is necessary to ensure the safety of participants, spectators, and the general public during the event. The special local regulation will temporarily restrict vessel traffic in a portion of the Wando River and Charleston Harbor, preventing non-participant vessels from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Charleston or a designated representative.

DATES: This rule is effective from 7 a.m. until 10 a.m. on June 1, 2013.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2013–0052 and are available online by going to *http://www.regulations.gov*, inserting USCG–2013–0052 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the 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, 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 Sector Charleston Office of Waterways Management, Coast Guard; telephone 843–740–3184, email *christopher.l.ruleman@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 History and Information

On March 26, 2013, we published a notice of proposed rulemaking (NPRM) entitled, "Special Local Regulation; Low Country Splash, Wando River, Cooper River, and Charleston Harbor, Charleston, SC" in the **Federal Register** (78 FR 18277). We received no comments on the proposed rule. No public meeting was requested, and none was held.

B. Basis and Purpose

On June 1, 2013, the Low country Splash Open Water Swim is scheduled to take place on the Wando River, Cooper River, and Charleston Harbor in Charleston, SC. The race will consist of approximately 500 swimmers. The race will commence at Daniel Island Pier, transit south in the Wando River, crossing the navigational channel at Hobcaw Point and continuing South into Charleston Harbor. The race will finish at Charleston Harbor Resort Marina. There will be safety vessels preceding the participating swimmers, and following the last participating swimmers. This event poses significant risks to participants, spectators, and the boating public because of the large number of swimmers and recreational vessels that are expected in the area of the event. These special local regulations are necessary to protect race participants, spectators, and other persons and vessels from the hazards associated with the race.

C. Discussion of Comments, Changes and the Final Rule

The special local regulation will designate a temporary regulated area on the Wando River, Cooper River, and Charleston Harbor in Charleston, South Carolina. The special local regulation will be enforced from 7 a.m. until 10 a.m. on June 1, 2013. Persons and vessels may not enter, transit through, anchor in, or remain within the safety zone unless authorized by the Captain of the Port Charleston or a designated representative.

Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Charleston by telephone at (843) 740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative. The Coast Guard will provide notice of the special local regulation by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

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, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this rule to be so minimal that a full regulatory evaluation is unnecessary. This rule may have some impact on the public, but these potential impacts will be minimal for the following reasons: (1) The rule will be in effect for only three hours; (2) although persons and vessels will not be able to enter, transit through, anchor in, or remain within the buffer zones without authorization from the Captain of the Port Charleston or a designated representative, they may operate in the surrounding area during the effective period; (3) advance notification will be made to the local maritime community via broadcast notice to mariners.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

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 The Wando River, Cooper River, and Charleston Harbor from 7 a.m. until 10 a.m. on June 1, 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 offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. 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 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 is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction. This rule involves special local regulations issued in conjunction with a regatta or marine parade. Under figure 2–1, paragraph (34)(h), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

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.T07–0052 to read as follows:

§ 100.T07–0052 Special Local Regulations; Low Country Splash, Wando River, Cooper River, and Charleston Harbor, Charleston, SC.

(a) *Regulated Areas.* The following regulated area is established as a special local regulation. All waters within a moving zone, beginning at Daniel Island Pier in approximate position 32°51′20″ N, 079°54′06″ W, South along the coast of Daniel Island, across the Wando River to Hobcaw Yacht Club, in approximate position 32°49′20″ N, 079°53′49″ W, South along the coast of Mt. Pleasant, S.C., to Charleston Harbor Resort Marina, in approximate position 32°47′20″ N, 079°54′39″ W. There will be a temporary Channel Closer from 0730 to 0815 on June 01, 2013 between Wando River Terminal Buoy 3 (LLNR 3305), and Wando River Terminal Buoy 5 (LLNR 3315). The zone will at all times extend 75 yards both in front of the lead safety vessel preceding the first race participants; 75 yards behind the safety vessel trailing the last race participants; and at all times extending 100 yards on either side of participating race and safety vessels. Information regarding the identity of the lead safety vessel and the last safety vessel will be provided 2 days prior to the race via broadcast notice to mariners and marine safety information bulletins.

(b) *Definition.* The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Charleston in the enforcement of the regulated areas.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated areas unless otherwise authorized by the Captain of the Port Charleston or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated areas may contact the Captain of the Port Charleston by telephone at 843–740–7050, or a designated representative via VHF radio on channel 16 to seek authorization. If authorization to enter, transit through, anchor in, or remain within the regulated areas is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such permission must comply with the instructions of the Captain of the Port Charleston or a designated representative.

(3) The Coast Guard will provide notice of the regulated areas through advanced notice via broadcast notice to mariners and by on-scene designated representatives.

(d) *Effective Date.* This rule is effective and will be enforced from 7:00 a.m. to 10:00 a.m. June 01, 2013.

Dated: May 1, 2013.

M. F. White,

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

[FR Doc. 2013–11530 Filed 5–14–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0334]

RIN 1625–AA00

Safety Zone; Safety Precautions to Protect the Public from the Effects of a Potential Catastrophic Failure of the Marseilles Dam; Illinois River

AGENCY: Coast Guard, DHS.

ACTION: Temporary Final Rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Illinois River from Mile Marker 231.0 to Mile Marker 271.4. This zone is intended to place restrictions on vessels due to the salvage and port recovery operations in this part of the Illinois River, and the potential structural concerns regarding the Marseilles Dam. This safety zone is necessary to protect the general public, vessels, and tows from the hazards associated with salvage and port recovery operations and the potential catastrophic failure of the Marseilles Dam.

DATES: This rule will be enforced with actual notice from April 29, 2013, until May 15, 2013. This rule is effective in the Code of Federal Regulations from May 15, 2013 until June 30, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2013–0334]. 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, contact MST1 Joseph McCollum, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747–7148 or by email at *Joseph.P.McCollum@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
TFR Temporary Final Rule

A. Regulatory History and Information

On April 18, 2013, in light of dangerously high water conditions, the Coast Guard established a temporary safety zone on the Illinois River from Mile Marker 187.2 to Mile Marker 285.9 (see docket for this regulation). The safety zone restricted recreational and commercial vessel transits in the zone without the permission of the Captain of the Port Lake Michigan. That safety zone has been effective and enforced since April 18, 2013, and expires on April 30, 2013. Because of the emergent nature of the flooding, the Coast Guard did not solicit comments before establishing this temporary safety zone.

On April 29, 2013, in order to facilitate commerce and in consideration of salvage operations around the Marseilles Dam, the Coast Guard established a temporary safety zone (USCG–2013–0323) that authorized commercial vessels to transit the Illinois River except from Mile Marker 244 to Mile Marker 252. Recreational vessels were prohibited from Mile Marker 187.2 to 285.9. Because of the emergent nature of the flooding, the Coast Guard also did not solicit comments prior to establishing this temporary safety zone.

Now, the Coast Guard is issuing a third 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 Coast Guard is issuing this rule in response to an immediate and emergency situation which involves salvage and port recovery operations in the vicinity of the Marseilles Lock and Dam and the potential for catastrophic failure of the Marseilles Dam. 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 persons and vessels from the hazards, which are discussed further below, associated with the potential catastrophic failure of the Marseilles Dam.

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 30 day notice period to run would be impracticable and contrary to the public interest.

B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and limited access areas: 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.

Heavy and extended periods of rain during the first half of the month of April resulted in dangerously high waters within the Illinois River, bringing excessive debris, rapidly-flowing water, and complicating vessel navigation. These high and rapidly-moving waters also threatened to damage critical infrastructure including river levees.

As a result of these conditions, the Coast Guard established the two previously-mentioned safety zones on the Illinois River from Mile Marker 187.2 to Mile Marker 285.9. Since April 18, 2013, seven barges broke loose from their tow during an approach to the Marseilles Lock canal and lodged against the Marseilles Dam. Salvage operations are underway to recover the barges and a structural survey of the dam is being conducted.

On April 29, 2013, the U.S. Army Corps of Engineers released Navigation Notice IW 13–12 saying that Dresden Lock and Starved Rock Lock will not lock vessel traffic into the area between the locks with the exception of those vessels assisting in the salvage operation or the dam recovery efforts at Marseilles Dam. Currently, both commercial and recreational vessels remain within portions of the Illinois River, which could either be affected by the failure of the Marseilles Dam or could impede the salvage operations at work there. This affected area is determined to be all waters of the Illinois River between the Starved Rock Lock and Dam (Mile marker 231.0) and the Dresden Lock and Dam (Mile Marker 271.4).

In an effort to ensure the safety of all vessels that might be either affected by the failure of the Marseilles Dam or could impede the salvage operations being conducted, the Captain of the Port is issuing this temporary final rule.

Enforcement of the restrictions in the prior temporary safety zone (USCG–2013–0323) will be suspended.

The Captain of the Port, Lake Michigan, has established the restrictions named within this regulation in response to the safety risks presented by the high water conditions, the potentially compromised dam, and ongoing salvage operations. The safety risks associated with these conditions include loss of vessel control, sinking, swamping, collisions, and allisions.

C. Discussion of Rule

The Captain of the Port, Lake Michigan, has determined that a safety zone is necessary to mitigate the aforementioned safety risks. This rule establishes a safety zone that encompasses all waters of the Illinois River from the gates of the Dresden Lock and Dam at Mile Marker 271.4 to the gates of the Starved Rock Lock and Dam at Mile Marker 231.0. This rule will place restrictions on certain vessels entering, transiting, moving within, or departing the waters within the safety zone. Inbound vessels are directed to contact the Army Corps of Engineers; vessels transiting within or departing from this zone are directed to contact the Captain of the Port, Lake Michigan Representative. This rule is effective and will be enforced from April 29, 2013, until June 30, 2013.

The Captain of the Port Lake Michigan will notify the public that this safety zone is being enforced by all appropriate means to the affected segments of the public including publication in the **Federal Register** as practicable, in accordance with 33 CFR 165.7(a). Such means of notification may also include, but are not limited to Broadcast Notice to Mariners or Local Notice to Mariners.

All persons and vessels shall comply with the instructions of the Captain of the Port, Lake Michigan, or his or her designated on-scene representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port, Lake Michigan, or his or her designated on-scene representative. The Captain of the Port, Lake Michigan, or his or her designated on-scene representative may be contacted via VHF Channel 16 or by contacting the Coast Guard Sector Lake Michigan Command Center at (414) 747–7182.

E. Regulatory Analysis

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 Order. 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 safety zone created by this rule will be relatively small and enforced for a relatively short amount of time. Also, this safety zone is designed to minimize its impact on navigable waters. Furthermore, the safety zone has been designed to allow vessels to transit unrestricted to portions of the waterways not affected by the safety zones. Thus, restrictions on vessel movements within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port, Lake Michigan. On the whole, the Coast Guard expects insignificant adverse impact to mariners from the activation of this 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 would 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 portions of the Illinois River during the time that this zone is enforced.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This safety zone would be effective and thus subject to enforcement, for two months. 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. Before the enforcement of the zone, we would issue local Broadcast Notice to Mariners.

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 so they can better evaluate its effects on them. 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 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. 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 would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

7. Taking of Private Property

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

8. 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.

9. 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 would not create an environmental risk to health or risk to safety that might disproportionately affect children.

10. 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.

11. 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.

12. Technical Standards

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

13. 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 a safety zone, and thus, paragraph 34(g) of figure 2–1 in Commandant Instruction M16475.lD applies.

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 record keeping 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.T09–0334 to read as follows:

§ 165.T09–0334 Safety Zone; Safety precautions to protect the public from the effects of a potential catastrophic failure of the Marseilles Dam; Illinois River.

(a) *Location.* All waters of the Illinois River from the gates of the Dresden Lock and Dam at Mile Marker 271.4 to the gates of the Starved Rock Lock and Dam at Mile Marker 231.0.

(b) *Effective and Enforcement Period.* This safety zone will be effective and enforced from April 29, 2013, until June 30, 2013.

(c) *Regulations.* (1) All vessels permitted to enter or remain in the safety zone are prohibited from laying up on levees.

(2) All vessels are prohibited from entering, transiting, or anchoring within this safety zone unless authorized by the Captain of the Port, Lake Michigan, or his designated representative.

(3) Any vessel located within the safety zone will be authorized to transit within or exit the safety zone only by permission of the Captain of the Port, Lake Michigan or his designated representative.

(d) *Exceptions.* (1) All vessels intending to transit into the safety zone are authorized to do so at the discretion of the Dresden and Starved Rock Lockmasters. The Dresden Lockmaster may be contacted by calling 815–942–0840. The Starved Rock Lockmaster may be contacted by calling 815–667–4114. Vessels underway in the Dresden or Starved Rock Pool should immediately seek a safe mooring or departure from the affected pools. Vessels moored within the Starved Rock or Dresden Pool that intend to depart or transit within the pool shall contact The Captain of the Port, Lake Michigan or his on-scene representative via VHF Channel 16, or by calling (630) 336–0300. Vessel operators given permission to enter, operate, or depart from the safety zone must comply with all directions given to them by the Captain of the Port, Lake Michigan, or his on-scene representative. The "on-scene representative" of the Captain of the Port, Lake Michigan is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port, Lake Michigan to act on his behalf.

Dated: April 29, 2013.

M.W. Sibley,

Captain, U.S. Coast Guard, Captain of the Port, Lake Michigan.

[FR Doc. 2013–11525 Filed 5–14–13; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2012–0968; FRL–9812–2]

Approval and Promulgation of Air Quality Implementation Plans; Ohio; Canton-Massillon 1997 8-Hour Ozone Maintenance Plan Revision to Approved Motor Vehicle Emissions Budgets

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Under the Clean Air Act (CAA), EPA is approving the request by Ohio to revise the Canton-Massillon, Ohio 1997 8-hour ozone maintenance air quality State Implementation Plan (SIP) to replace the previously approved motor vehicle emissions budgets (budgets) with budgets developed using EPA's Motor Vehicle Emissions Simulator (MOVES) emissions model. Ohio submitted the SIP revision request to EPA on November 26, 2012.

DATES: This direct final rule will be effective July 15, 2013, unless EPA receives adverse comments by June 14,

2013. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2012–0968, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: blakley.pamela@epa.gov.*
3. *Fax:* (312) 692–2450.
4. *Mail:* Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2012–0968. 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 Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Anthony Maietta, Environmental Protection Specialist, at (312) 353–8777 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Anthony Maietta, Environmental Protection Specialist, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8777, *maietta.anthony@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This **SUPPLEMENTARY INFORMATION** section is arranged as follows:

I. What is EPA approving?

EPA is approving new MOVES2010a-based budgets for the Canton-Massillon, Ohio, 1997 8-hour ozone maintenance area that will replace the MOBILE-based budgets in the SIP. The Canton-Massillon, Ohio area was redesignated to attainment of the 1997 8-hour ozone standard effective June 15, 2007, (72 FR 27648). MOBILE6.2-based budgets were approved in that action. Upon the effective date of approval of the MOVES-based budgets, they must then be used in future transportation conformity analyses for the area as required by section 176(c) of the CAA. See the official release of the MOVES2010 emissions model (75 FR 9411–9414) for background, and section II.(c) below for details.

II. What is the Background for this action?

a. SIP Budgets and Transportation Conformity

Under the CAA, states are required to submit control strategy SIP revisions and maintenance plans for nonattainment and maintenance areas for a given National Ambient Air Quality Standard (NAAQS). These SIP revisions and maintenance plans include budgets of on-road mobile source emissions for criteria pollutants and/or their precursors. Transportation plans and projects "conform" to (i.e., are consistent with) the SIP when they will not cause or contribute to air quality violations, or delay timely attainment of the NAAQS or an interim milestone.

b. Prior Approval of Budgets

EPA previously approved budgets for the Canton-Massillon, Ohio, 8-hour ozone maintenance area for volatile organic compounds (VOCs) and nitrogen oxides (NO_x). The area's ozone maintenance plan established 2009 and 2018 budgets that demonstrated a reduction in emissions from the monitored attainment year.

c. The MOVES Emissions Model

The MOVES model is EPA's state of the art tool for estimating highway emissions. EPA announced the release of MOVES2010 in March 2010 (75 FR 9411). Use of the MOVES model is required for regional emissions analyses for transportation conformity determinations outside of California that begin after March 2, 2013.

MOVES2010a was used to estimate emissions in the Canton-Massillon area for the same milestone years as the original budgets in the SIP. The Ohio Environmental Protection Agency (OEPA) is revising the budgets using the latest planning assumptions, including population and employment updates. In addition, newer vehicle registration data has been used to update the age distribution of the vehicle fleet. Updating the budgets with MOVES2010a allows the area to continue to show conformity to the SIP in plans, transportation improvement programs, and projects. The interagency

consultation group has had extensive consultation on the requirements and need for new budgets.

d. Submission of New Budgets Based on MOVES2010a

On November 26, 2012, Ohio submitted final budgets based on MOVES2010a that cover the Canton-Massillon area. Ohio received no comments during the public review and comment period.

The new MOVES2010a based budgets are for the years 2009 and 2018 for both VOCs and NO_X and are detailed later in this notice. Ohio has provided the area's total emissions from all sectors, including mobile emissions based on MOVES2010a, for the attainment year of 2004, the 2009 interim budget year, and the 2018 maintenance year. The combined emissions reduction from all sectors between the years 2004 and 2018 is also shown. Total emissions include point, area, non-road mobile and on-road mobile sources. The total emissions and combined emissions reduction are shown in tables 1 and 2. It should be noted that in tables 1 and 2, for on-road emissions of both VOC and NO_X for the years 2009 and 2018, a 15% safety margin has been applied to reach the values shown.

TABLE 1—TOTAL VOC EMISSIONS WITH MOVES2010A MOBILE EMISSIONS IN CANTON-MASSILLON, OHIO

[Tons per day]

Sector	2004 Attainment	2009 Interim	2018 Maintenance	Combined emissions reduction (2004–2018)
Point	2.97	3.14	3.77	
Area	21.03	20.49	21.93	
On-road Mobile	22.56	19.17	9.02	
Non-road Mobile	5.44	4.06	3.36	
Total	52.00	46.86	38.08	13.92

TABLE 2—TOTAL NO_X EMISSIONS WITH MOVES2010A MOBILE EMISSIONS IN CANTON-MASSILLON, OHIO

[Tons per day]

Sector	2004 Attainment	2009 Interim	2018 Maintenance	Combined emissions reduction (2004–2018)
Point	4.85	4.16	4.72	
Area	1.23	1.40	1.46	
On-road Mobile	33.14	28.36	11.37	
Non-road Mobile	9.25	7.20	4.72	
Total	48.47	41.12	22.27	26.20

The Stark County Area Transportation Study added a safety margin that is only a portion of the attainment margin available for NO_X and VOCs to the budgets for 2009 and 2018. As shown in tables 1 and 2, the submittal demonstrates how the area's emissions decline from the attainment year of 2004 to maintain the 1997 8-hour ozone standard.

No additional control measures were needed to maintain the 1997 ozone standard in the Canton-Massillon area. An appropriate safety margin for NO_X and VOCs was selected by the interagency consultation group, which consists of the Federal Highway Administration, OEPA, the Ohio Department of Transportation, and EPA. The submitted budgets for the Canton-Massillon, Ohio area are shown in table 3 below.

III. What are the criteria for approval?

EPA requires that revisions to existing SIPs and budgets continue to meet applicable requirements (e.g., reasonable further progress, attainment, or maintenance). The SIP must also meet any applicable SIP requirements under CAA section 110. In addition, adequacy criteria found at 40 CFR 93.118(e)(4) must be satisfied before EPA can find submitted budgets adequate and approve them for conformity purposes.

Areas can revise their budgets and inventories using MOVES without revising their entire SIP if (1) the SIP continues to meet applicable requirements when the previous motor vehicle emissions inventories are replaced with MOVES base year and milestone, attainment, or maintenance year inventories, and (2) the state can document that growth and control strategy assumptions for non-motor vehicle sources continue to be valid and any minor updates do not change the overall conclusions of the SIP. Ohio's November 26, 2012, submittal meets this requirement as described in the next section.

For more information, see EPA's latest "Policy Guidance on the Use of MOVES2010 for SIP Development, Transportation Conformity, and Other Purposes" (April 2012), available online at: *www.epa.gov/otaq/stateresources/transconf/policy.htm#models.*

IV. What is EPA's analysis of the State's submittal?

a. The Revised Inventories

The November 26, 2012, SIP revision request for the Canton-Massillon, Ohio 1997 ozone maintenance plan seeks to revise only the on-road mobile source inventories. OEPA has certified that the control strategies remain the same as in the original SIP, and that no other control strategies are necessary. OEPA also finds that growth and control strategy assumptions for non-mobile sources (i.e., area, non-road, and point) have not changed significantly from the original submittal. This is supported by

the monitoring data for the Canton-Massillon area, which continues to monitor attainment for the 1997 8-hour ozone standard.

EPA has reviewed the emission estimates for point, area and non-road sources and concluded that no major changes to the projections need to be made. Ohio finds that growth and control strategy assumptions for non-mobile sources (i.e., area, non-road, and point) have not changed significantly from the original submittal for the years 2004, 2009, and 2018. As a result, the growth and control strategy assumptions for the non-mobile sources for the years 2004, 2009, and 2018 continue to be valid and do not affect the overall conclusions of the plan.

Ohio's submittal confirms that the total emissions in the revised SIP (which includes MOVES2010a emissions from mobile sources) as shown in tables 1 and 2 above demonstrate that emissions in the Canton-Massillon, Ohio area continue to decline and remain below the attainment levels.

Ohio has submitted MOVES 2010a-based budgets for the Canton-Massillon, Ohio area that are clearly identified in the submittal. The budgets are displayed in table 3.

TABLE 3—MOTOR VEHICLE EMISSION BUDGETS (MOVES) FOR THE CANTON-MASSILLON 1997 OZONE AREA (STARK COUNTY, OHIO) IN TONS PER DAY

Year	2009	2018
VOC	19.17	9.02
NO_X	28.36	11.37

b. Approvability of the MOVES2010a-Based Budgets

EPA is approving the MOVES2010a-based budgets submitted by Ohio for use in determining transportation conformity in the Canton-Massillon, Ohio 1997 ozone maintenance area. EPA evaluated the MOVES-basaed budgets using the adequacy criteria found in 40 CFR 93.118(e)(4), and our in-depth evaluation of the State's submittal and SIP requirements.

Before submitting the revised budgets, OEPA followed all necessary conformity procedures. The budgets are clearly identified and precisely quantified in the submittal. The budgets, when considered with other emissions sources, are consistent with continued maintenance of the 1997 ozone standard. The budgets are clearly related to the emissions inventory and control measures in the SIP. The changes from the previous budgets are clearly explained with the change in the model from MOBILE6.2 to MOVES2010a and the revised and updated planning assumptions. The inputs to the model are detailed in the appendix to the submittal. EPA has reviewed the inputs to the MOVES2010a modeling and participated in the consultation process. The Federal Highway Administration and the Ohio Department of Transportation have taken a lead role in working with the Miami Valley Regional Planning Commission to provide accurate, timely information and inputs to the MOVES2010a model run. The state has documented that growth and control strategy assumptions for non-motor vehicle sources (i.e. area, non-road, and point) continue to be valid and any minor updates do not change the overall conclusions of the SIP.

Ohio's submission confirms that the SIP continues to demonstrate maintenance of the 1997 ozone standard because the total emissions in the revised SIP (including MOVES2010a emissions for mobile sources) continue to decrease from the attainment year to the final year of the maintenance plan, as shown in tables 1 and 2 above. The budgets include an appropriate margin of safety while still maintaining total emissions below the attainment level. The submitted budgets include an appropriate margin of safety while still maintaining total emissions below the attainment level.

Based on our review of the SIP and the new budgets provided, EPA has determined that the SIP will continue to meet the requirements if the motor vehicle emissions inventories are replaced with MOVES2010a-based inventories.

c. Applicability of MOBILE6.2-Based Budgets

Upon the effective date of the approval of the revised budgets, the state's existing MOBILE6.2-based budgets will no longer be applicable for transportation conformity purposes.

V. What action is EPA taking?

EPA is approving the 2009 and 2018 submitted budgets for the Canton-Massillon, Ohio 1997 ozone maintenance plan. We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective July 15, 2013 without further notice unless we receive relevant adverse written comments by June 14, 2013. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective July 15, 2013.

VI. Statutory and Executive Order Reviews

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 15, 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: April 30, 2013.

Susan Hedman,

Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

■ 2. Section 52.1885 is amended by adding paragraph (ff)(14) to read as follows:

§ 52.1885 Control Strategy: Ozone.

* * * * *

(ff) * * *

(14) Approval—On December 7, 2012, Ohio submitted a request to revise the approved MOBILE6.2 motor vehicle emission budgets (budgets) in the 1997 8-hour ozone maintenance plan for the Canton-Massillon, Ohio area. The budgets are being revised with budgets developed with the MOVES2010a model. The 2009 motor vehicle emissions budgets for the Canton-Massillon, Ohio area are 19.17 tpd VOC and 28.36 tpd NO_X. The 2018 motor vehicle emissions budgets for the Canton-Massillon, Ohio area are 9.02 tpd VOC and 11.37 tpd NO_X.

* * * * *

[FR Doc. 2013–11450 Filed 5–14–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2011–0328; FRL–9811–7]

Approval and Promulgation of Air Quality Implementation Plans; Minnesota; Flint Hills Resources Pine Bend

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving Minnesota's August 29, 2011, request to revise its sulfur dioxide (SO_2) state implementation plan (SIP) for Flint Hills Resources Pine Bend, LLC (FHR Pine Bend), in Dakota County. The facility is shutting down an incinerator and rerouting process gases to address a safety issue. The revised SIP also includes other emission reductions. This revision will result in a decrease in SO_2 emissions. EPA published a direct final approval of this SIP revision request on January 31, 2013, but received an adverse comment and therefore withdrew the approval. EPA is hereby addressing the comment and taking final action on Minnesota's August 29, 2011, submittal.

DATES: This rule is effective June 14, 2013.

ADDRESSES: EPA has established a docket for this action under Docket Identification EPA–R05–OAR–2011–0328. All documents in these dockets are listed on the *www.regulations.gov* Web site. 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 U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Mary Portanova at (312) 353–5954 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Mary Portanova, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–5954, *portanova.mary@epa.gov*.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

I. What is the background for this action?
II. What is EPA's response to comments?
III. Final Action
IV. Statutory and Executive Order Reviews

I. What is the background for this action?

On August 29, 2011, Minnesota submitted a request to EPA to revise its SO_2 SIP for the FHR Pine Bend oil refinery in Rosemount, Dakota County. FHR Pine Bend is making modifications to its facility to address plant safety and improve energy efficiency. The facility will remove its Merox process incinerator, reroute process gases to an existing heater, take additional restrictions on steam-air decoking activities for certain boilers, revise the SO_2 emission limits for its fluid catalytic cracking unit, and make plans to add a boiler. See the January 31, 2013, direct final approval (78 FR 6733) for additional information. Overall, the August 29, 2011, SIP revision provides for a reduction in SO_2 emissions of over 3100 tons per year. EPA's January 31, 2013, direct final action approving Minnesota's SIP revision request received one adverse public comment, so EPA withdrew the final action on March 26, 2013 (78 FR 18241).

II. What is EPA's Response to Comments?

EPA received one comment during the public comment period for the January 31, 2013, rulemaking. A summary of the comment and EPA's response are provided below.

Comment: The commenter objects to the FHR Pine Bend SIP amendment because of concerns that SO_2 emissions are grossly underestimated when only fuel gas hydrogen sulfide (H_2S) is used to determine compliance with SO_2 emission limits, because there are other sulfur compounds in fuel gas that also contribute to SO_2 emissions. The commenter recommends that SO_2 continuous emissions monitors (CEMs) be installed on all fuel gas sources at FHR Pine Bend, including the new boiler.

Response: The gas combustion units at FHR Pine Bend are fueled by natural gas and/or refinery fuel gas. Natural gas contains very little sulfur. Refinery fuel gas may contain sulfur compounds. At FHR Pine Bend, refinery fuel gas is generated by the facility's processes and collected into two fuel gas mix drums, designated 41V–33 and 45V–39. The gases are then distributed from these mix drums to combustion units at the facility, such as boilers and heaters. FHR Pine Bend operates H_2S CEMs on the mix drums to satisfy the requirements of the New Source Performance Standards (40 CFR part 60, subparts J and Ja). The 41V–33 mix drum receives gases which contain H_2S, but do not contain a large concentration of other sulfur compounds. FHR Pine Bend operates a CEM which measures total sulfur in the 41V–33 mix drum gases. The 45V–39 mix drum receives gases from different processes, and these gases may contain sulfur compounds other than H_2S. FHR Pine Bend uses stack SO_2 CEMs and fuel flow meters at two representative heaters fired with gases from the 45V–39 mix drum to determine the sulfur content of the fuel gases for SO_2 compliance calculations. The SO_2 emissions from FHR Pine Bend's gas-fired combustion sources are calculated using the CEM data for the mix drum gas stream which supplies them. For the Merox off-gas incinerator, FHR Pine Bend uses a CEM that directly measures the incinerator's SO_2 emissions. This SO_2 CEM will be moved to the 31H–2 process heater when the Merox off-gas stream is directed to that heater. Data from the CEM will be used to determine compliance with the SO_2 SIP emission limits at the 31H–2 heater. In a letter to EPA dated March 15, 2013, FHR Pine Bend explained its continuous emissions monitoring methods for sulfur and confirmed that it is already required to continuously measure the sulfur in the refinery fuel gas it combusts, and that its SO_2 emissions calculations account for the different sulfur compounds present in the gas. Therefore, EPA is satisfied that FHR Pine Bend is correctly measuring its sulfur emissions and is already performing the continuous SO_2 monitoring that the commenter expects.

III. Final Action

EPA is approving Minnesota's August 29, 2011, request to revise its SO_2 SIP for FHR Pine Bend, in Dakota County.

IV. Statutory and Executive Order Reviews

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

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

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in

the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 15, 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, Intergovernmental relations, Sulfur oxides.

Dated: April 29, 2013.

Susan Hedman,

Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

■ 2. In § 52.1220, the table in paragraph (d) is amended by revising the entry for "Flint Hills Resources, L.P. (formerly Koch Petroleum)" to read as follows:

§ 52.1220 Identification of plan.

* * * * *

(d) * * *

EPA-APPROVED MINNESOTA SOURCE-SPECIFIC PERMITS

Name of source	Permit No.	State effective date	EPA approval date	Comments
*	*	*	*	*
Flint Hills Resources Pine Bend, LLC.		08/29/11	05/15/13, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS].	Amendment Nine to Findings and Order.
*	*	*	*	*

* * * * *

[FR Doc. 2013–11477 Filed 5–14–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2013–0021 and EPA–R05–OAR–2013–0022; FRL–9812–4]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Lake and Porter Counties, Indiana, 1997 8-Hour Ozone Maintenance Plan and 1997 Annual Fine Particulate Matter Maintenance Plan Revision to Approved Motor Vehicle Emissions Budgets

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving Indiana's request to revise the Lake and Porter Counties State Implementation Plans (SIPs) for the 1997 8-hour ozone standard, and the 1997 annual fine particulate matter ($PM_{2.5}$) standard to replace the previously approved motor vehicle emissions budgets (budgets) with budgets developed using EPA's Motor Vehicle Emissions Simulator (MOVES) 2010a emissions model. The Indiana Department of Environmental Management (IDEM) submitted these requests to EPA with submittal letters dated February 1, 2013.

DATES: This direct final rule will be effective July 15, 2013, unless EPA receives adverse comments by June 14, 2013. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2013–0021 and EPA–R05–OAR–0022, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *Email: blakley.pamela@epa.gov.*

3. *Fax:* (312) 692–2450.

4. *Mail:* Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery:* Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2013–0021 for ozone or EPA–R05–OAR–0022 for $PM_{2.5}$. 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 Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Anthony Maietta, Environmental Protection Specialist, at (312) 353–8777 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Anthony Maietta, Environmental Protection Specialist, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8777, *maietta.anthony@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

I. What is EPA approving?

EPA is approving new MOVES2010a-based budgets for the Lake and Porter County, Indiana 1997 8-hour ozone maintenance area and the 1997 annual $PM_{2.5}$ maintenance area that will replace MOBILE-based budgets in the SIP. The Lake and Porter County, Indiana area was redesignated to attainment of the 1997 8-hour ozone standard effective May 11, 2010 (75 FR 26113). The Lake and Porter County, Indiana area was redesignated to attainment of the 1997 annual $PM_{2.5}$ standard effective February 6, 2012 (76 FR 76302). MOBILE6.2-based budgets were approved in those actions. Upon the effective date of approval of the MOVES-based budgets, they must then be used in future transportation conformity analyses for the area as required by section 176(c) of the CAA. See the official release of the MOVES2010 emissions model (75 FR 9411–9414) for background and section II.(c) below for details.

II. What is the Background for this action?

a. SIP Budgets and Transportation Conformity

Under the CAA, states are required to submit, at various times, control strategy SIP revisions and maintenance plans for nonattainment and maintenance areas for a given National Ambient Air Quality Standard (NAAQS). These SIP revisions and maintenance plans include budgets of on-road mobile source emissions for criteria pollutants and/or their precursors. Transportation plans and projects "conform" to (*i.e.*, are consistent with) the SIP when they will not cause or contribute to air quality violations, delay timely attainment of the NAAQS, or delay an interim milestone.

b. Prior Approval of Budgets

EPA previously approved MOBILE6.2-based volatile organic compounds (VOC) and nitrogen oxides (NO_X) budgets for the Lake and Porter County 8-hour ozone maintenance area, as well as NO_X and direct PM budgets for the Lake and Porter County 1997 annual $PM_{2.5}$ nonattainment area. The ozone maintenance plan established 2010 and 2020 budgets for the area that demonstrated a reduction in emissions from the monitored attainment year and included a margin of safety. The $PM_{2.5}$ maintenance plan established budgets for 2025 for the area.

c. The MOVES Emissions Model

The MOVES model is EPA's state-of-the-art tool for estimating highway emissions. EPA announced the release of MOVES2010 in March 2010 (75 FR 9411). Use of the MOVES model is required for regional emissions analyses for transportation conformity determinations outside of California that begin after March 2, 2013.

MOVES2010a was used to estimate emissions in the same milestone years as the original budgets in the SIP. IDEM is revising the budgets using the latest planning assumptions including population and employment updates. In addition, newer vehicle registration data has been used to update the age distribution of the vehicle fleet. Updating the budgets with MOVES2010a allows the area to continue to show conformity to the SIP in plans, transportation improvement programs, and projects. The interagency consultation group has had extensive consultation on the requirements and need for new budgets.

d. Submission of New Budgets Based on MOVES2010a

On February 1, 2013, IDEM submitted replacement budgets based on MOVES2010a for the Lake and Porter County area. IDEM provided public review and comment for these budgets, which ended on January 25, 2013. There were no comments.

IDEM has also provided total emissions, including mobile emissions based on MOVES2010a, for the attainment year of 2006, the interim year 2010 and the 2020 maintenance year (as shown in table 1). The combined emissions reduction for each pollutant is the reduction in emissions from the base year (in this case the 2006 attainment year) to the final year of the maintenance plan (in this case the 2020 year). The total emissions include point, area, non-road and on-road mobile sources.

TABLE 1—OZONE—TOTAL EMISSIONS WITH MOVES2010A MOBILE EMISSIONS

[Tons per day]

Year	2006	2010	2020	Combined emissions reduction (2006–2020)
VOC	85.90	75.08	69.70	16.20

TABLE 1—OZONE—TOTAL EMISSIONS WITH MOVES2010A MOBILE EMISSIONS—Continued

[Tons per day]

Year	2006	2010	2020	Combined emissions reduction (2006–2020)
NO_X	213.41	192.84	159.58	53.83

IDEM has added only a small portion of the combined emissions reduction available for use in NO_X and VOC budgets for 2010 and 2020. As shown in table 1, the submittal demonstrates that the area's emissions decline from the attainment year of 2006 to maintain the 1997 8-hour ozone standard.

No additional control measures were needed to maintain the 1997 ozone standard in the Lake and Porter County area. An appropriate safety margin for NO_X and VOCs was selected by the interagency consultation group, which consists of representatives from the Federal Highway Administration, the Indiana Department of Transportation, IDEM, and EPA. The on-road MOVES2010a based budgets for ozone are listed in table 2.

TABLE 2—OZONE—MOTOR VEHICLE EMISSION BUDGETS (MOVES) FOR THE LAKE AND PORTER COUNTY, INDIANA, AREA IN TONS PER DAY

Year	2010	2020
VOC	13.99	5.99
NO_X	47.26	16.69

IDEM has also provided total emissions, including mobile emissions based on MOVES2010a, for the attainment year of 2008, the interim year 2015 and the 2025 maintenance year, as shown in table 3.

TABLE 3—FINE PARTICULATE MATTER—TOTAL EMISSIONS WITH MOVES2010A MOBILE EMISSIONS

[Tons per year]

Year	2008	2015	2020	2025	Combined emissions reduction (2008–2025)
$PM_{2.5}$	9,052.67	7,246.52	7,074.03	6,810.83	2241.84
NO_X	64,053.36	45,189.97	42,528.83	37,237.39	26,815.97

Indiana has added only a small portion of the combined emissions reduction available for use in NO_X and $PM_{2.5}$ budgets for 2015 and 2025. As shown in table 3, the reduction in emissions between 2008 and 2025 demonstrates that the area will continue to maintain the 1997 annual $PM_{2.5}$ standard.

No additional control measures were needed to maintain the 1997 annual $PM_{2.5}$ standard in the Lake and Porter County area. An appropriate safety margin for NO_X and $PM_{2.5}$ was decided by the interagency consultation group. The on-road MOVES2010a based budgets are shown in table 4.

TABLE 4—$PM_{2.5}$—MOTOR VEHICLE EMISSION BUDGETS (MOVES) FOR LAKE AND PORTER COUNTY, INDIANA IN TONS PER YEAR

Year	2015	2025
$PM_{2.5}$	374.30	188.73
NO_X	10,486.08	5,472.34

III. What are the Criteria for approval?

EPA requires that revisions to existing SIPs and budgets continue to meet applicable requirements (*e.g.*, RFP, attainment, or maintenance). The SIP must also meet any applicable SIP requirements under CAA section 110. In addition, adequacy criteria found at 40 CFR 93.118(e)(4) must be satisfied before EPA can find submitted budgets adequate and approve them for conformity purposes.

Areas can revise their budgets and inventories using MOVES without revising their entire SIP if: (1) The SIP continues to meet applicable requirements when the previous motor vehicle emissions inventories are replaced with MOVES base year and milestone, attainment, or maintenance year inventories; and (2) the state can document that growth and control strategy assumptions for non-motor vehicle sources continue to be valid and any minor updates do not change the overall conclusions underlying the SIP. The Indiana submittals meet this requirement as described below in the next section.

For more information, see EPA's latest "Policy Guidance on the Use of MOVES2010 for SIP Development, Transportation Conformity, and Other Purposes" (April 2012), available online at: *www.epa.gov/otaq/stateresources/transconf/policy.htm#models.*

IV. What Is EPA's analysis of the State's submittal?

a. The Revised Inventories

The February 1, 2013, SIP revision requests for the Lake and Porter County 1997 ozone maintenance area and the 1997 annual $PM_{2.5}$ area seek to revise only the on-road mobile source inventories. IDEM has certified that the control strategies remain the same as in the original SIP, and that no other control strategies are necessary. IDEM also finds that growth and control strategy assumptions for sources other than on-road have not changed significantly from the original submittal. This is confirmed by the monitoring data for the Lake and Porter County area, which continues to monitor attainment for the 1997 8-hour ozone

standard and the 1997 annual $PM_{2.5}$ standard.

b. Approvability of the MOVES2010a-Based Budgets

EPA evaluated the MOVES-based budgets submitted on February 1, 2013, using the adequacy criteria found in 40 CFR 93.118(e)(4) and our in-depth evaluation of the state's submittal and SIP requirements. Before submitting the revised budgets, Indiana followed all necessary conformity procedures. The budgets are clearly identified and precisely quantified in the submittal. The budgets, when considered with other emissions sources, are consistent with continued maintenance of the 1997 ozone standard. The budgets are clearly related to the emissions inventory and control measures in the SIP. The changes from the previous budgets are clearly explained with the change in the model from MOBILE6.2 to MOVES2010a and the revised and updated planning assumptions. The inputs to the model are detailed in the Appendix to the submittal. EPA has reviewed the inputs to the MOVES2010a modeling and participated in the consultation process. The Federal Highway Administration—Indiana Division and the Indiana Department of Transportation have taken a lead role in working with the Northwestern Indiana Regional Planning Commission to provide accurate, timely information and inputs to the MOVES2010a model runs. The state has documented that growth and control strategy assumptions for non-motor vehicle sources (*i.e.* area, non-road, and point) continue to be valid and any minor updates do not change the overall conclusions of the SIP.

IDEM's submission confirms that the SIP continues to demonstrate maintenance of the 1997 ozone standard and annual $PM_{2.5}$ standard because the total emissions in the revised SIP (including MOVES2010a emissions for mobile sources) decrease from the attainment year to the last year of the maintenance plan, as shown in tables 1 and 3. The budgets include an appropriate margin of safety while still maintaining total emissions below the attainment level.

Based on our review of the February 1, 2013, submittal, EPA has determined that the SIP will continue to meet its requirements if the revised motor vehicle emissions inventories are replaced with MOVES2010a inventories.

c. Applicability of MOBILE6.2-Based Budgets

When we finalize the approval of the revised budgets, the state's existing MOBILE6.2-based budgets will no longer be applicable for transportation conformity purposes.

V. What action is EPA taking?

EPA is approving MOVES2010a-based budgets for the Lake and Porter County, Indiana 1997 8-hour ozone maintenance area and 1997 annual $PM_{2.5}$ maintenance area as submitted on February 1, 2013. We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective July 15, 2013 without further notice unless we receive relevant adverse written comments by June 14, 2013. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective July 15, 2013.

VI. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 15, 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: April 30, 2013.

Susan Hedman,

Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

■ 2. The table in § 52.770 paragraph (e) is amended by adding entries in alphabetical order for "Lake and Porter Counties 1997 8-hour ozone maintenance plan" and "Lake and Porter Counties 1997 annual $PM_{2.5}$ maintenance plan" to read as follows:

§ 52.770 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED INDIANA NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Title	Indiana date	EPA approval	Explanation
*	*	*	*
Lake and Porter Counties 1997 8-hour ozone maintenance plan.	February 1, 2013	May 15, 2013, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS].	Revision to motor vehicle emission budgets.
Lake and Porter Counties 1997 annual $PM_{2.5}$ maintenance plan.	February 1, 2013	May 15, 2013, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS].	Revision to motor vehicle emission budgets.
*	*	*	*

■ 3. In § 52.776, revise paragraph (v)(4) to read as follows:

§ 52.776 Control strategy: Particulate atter.

* * * * *

(v) * * *

(4) Approval—On February 1, 2013, Indiana submitted a request to revise the motor vehicle emission budgets (budgets) in the 1997 annual $PM_{2.5}$ maintenance plan for the Lake and Porter County, Indiana maintenance area. The budgets are being revised with budgets developed with the MOVES2010a model. The 2015 motor vehicle emissions budgets for Lake and Porter County, Indiana are 347.30 tpy $PM_{2.5}$ and 10,486.08 tpy NO_X. The 2025 motor vehicle emissions budgets for the Lake and Porter County area are 188.73 tpy $PM_{2.5}$ and 5,472.34 tpy for NO_X.

* * * * *

■ 4. In § 52.777, paragraph (pp) is amended by redesignating the existing text as paragraph (pp)(1) and by adding paragraph (pp)(2) to read as follows:

§ 52.777 Control Strategy: photochemical oxidants. (hydrocarbons).

* * * * *

(pp)(1) * * *

(2) Approval—On February 1, 2013, Indiana submitted a request to revise the motor vehicle emission budgets (budgets) in the 1997 8-hour ozone maintenance plan for the Lake and Porter County, Indiana maintenance area. The budgets are being revised with budgets developed with the MOVES2010a model. The 2010 motor vehicle emissions budgets for Lake and Porter County, Indiana are 13.99 tpd VOC and 47.26 tpd NO_X. The 2020 motor vehicle emissions budgets for the Lake and Porter County area are 5.99 tpd VOC and 16.69 tpd for NO_X.

* * * * *

[FR Doc. 2013–11456 Filed 5–14–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2012–0107; FRL–9382–8]

Spirotetramat; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of spirotetramat in or on multiple commodities which are identified and discussed later in this document. This regulation additionally removes several permanent and time-limited tolerances, because they are superseded by new tolerances established by this document. Interregional Research Project Number 4 (IR–4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective May 15, 2013. Objections and requests for hearings must be received on or before July 15, 2013, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

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

Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Laura Nollen, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–7390; email address: *nollen.laura@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2012–0107 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before July 15, 2013. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

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

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

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

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of April 4, 2012 (77 FR 20334) (FRL–9340–4), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 1E7958) by IR–4, 500 College Road East, Suite 201 W, Princeton, NJ 08540. The petition requested that 40 CFR 180.641 be amended by establishing tolerances for residues of the insecticide spirotetramat, cis-3-(2,5-dimethlyphenyl)-8-methoxy-2-oxo-1-azaspiro[4.5]dec-3-en-4-yl-ethyl carbonate, and its metabolites, cis-3-(2,5-dimethylphenyl)-4-hydroxy-8-methoxy-1-azaspiro[4.5]dec-3-en-2-one, cis-3-(2,5-dimethylphenyl)-3-hydroxy-8-methoxy-1-azaspiro[4.5]decane-2,4-dione, cis-3-(2,5-dimethylphenyl)-8-methoxy-2-oxo-1-azaspiro[4.5]dec-3-en-4-yl beta-D-glucopyranoside, and cis-3-(2,5-dimethylphenyl)-4-hydroxy-8-methoxy-1-azaspiro[4.5]decan-2-one, calculated as spirotetramat equivalents, in or on taro, leaves at 9 parts per million (ppm); watercress at 1.5 ppm; pomegranate at 0.5 ppm; banana at 4 ppm; vegetable, bulb, group 3–07 at 0.6 ppm; berry, low growing, except strawberry, subgroup 13–07H at 0.3 ppm; bushberry, subgroup 13–07B at 3 ppm; artichoke, globe at 2 ppm; vegetable, fruiting, group 8–10 at 2.5 ppm; fruit, pome, group 11–10 at 0.7 ppm; fruit, citrus, group 10–10 at 0.6 ppm; pineapple at 0.3 ppm; pineapple, process residue at 0.36 ppm; coffee, green beans at 0.2 ppm; and coffee, roast beans at 0.32 ppm. The petition additionally requested to remove the established spirotetramat tolerances in 40 CFR 180.641 for onion, bulb, subgroup 3A–07 at 0.30 ppm; fruit, citrus, group 10 at 0.60 ppm; fruit, pome, group 11 at 0.70 ppm; okra at 2.5 ppm; and vegetable, fruiting, group 8 at 2.5 ppm, because they would be superseded by new tolerances.

That document referenced a summary of the petition prepared on behalf of IR–4 by Bayer CropScience, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has revised the tolerance levels for several proposed commodities. The Agency has also determined that the proposed tolerances on pineapple, process residue, and coffee, roast beans, are not necessary and a tolerance on coffee, instant, should be established. The reasons for these changes are explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

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

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has

sufficient data to assess the hazards of and to make a determination on aggregate exposure for spirotetramat including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with spirotetramat follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

The thyroid and thymus glands were target organs in oral subchronic toxicity studies in dogs, the most sensitive species tested. The thyroid effects in dogs consisted of lower circulating levels of thyroid hormones along with a reduction in follicle size, a possible indication of reduced amount of colloid. Thymus effects in dogs were described microscopically as involution, which also resulted in decreased organ weight. In rats, the testes were the target organs following subchronic and chronic oral treatments. The effects on the rat testes consisted of abnormal spermatozoa and hypospermia in the epididymis, decreased testicular weights, and testicular degenerative vacuolation.

The 2-generation rat reproductive toxicity study showed evidence of male reproductive toxicity similar to chronic and subchronic studies with adult rats. However, development of the sexual organs in the offspring (balano-preputial separation, vaginal opening) was unaffected. In an investigative study designed to explore the time of onset of testicular toxicity in rats, decreased epididymal sperm counts were noted after 10 days of exposure. Similar effects were observed after repeated dosing with the enol metabolite of spirotetramat. In the rat developmental toxicity study, offspring toxicity (reduced fetal weight and increased incidences of malformations and skeletal deviations) was observed at the same dose level (limit dose) as maternal toxicity (decreased maternal body weight and food consumption). In the developmental toxicity study in the rabbit, late abortions and other signs of systemic toxicity were observed only in the presence of impaired maternal food and water consumption and body weight loss.

The only evidence of neurotoxicity in the rat acute neurotoxicity study was based on decreased motor and locomotor activity, which occurred only at relatively high dose levels. EPA's preliminary review of a recently submitted rat subchronic neurotoxicity study does not indicate a concern for neurotoxicity, even at relatively high dose levels. The results of an immunotoxicity study in rats do not indicate any functional deficits in immune function. No evidence of tumor formation was found following long-term carcinogenicity studies in mice and rats, and spirotetramat was also negative for mutagenicity and clastogenicity in several standard *in viva* and *in vitro* assays.

Specific information on the studies received and the nature of the adverse effects caused by spirotetramat as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulatians.gav* in document: "Spirotetramat. Human-Health Risk Assessment for the Proposed Uses in/on Taro, Leaves; Watercress; Pomegranate; Banana; Vegetable, Bulb, Group 3–07; Low growing Berry Subgroup 13–07H, Except Strawberry and Lowbush Blueberry; Bushberry Subgroup 13–07B; Artichoke, Globe; Vegetable, Fruiting, Group 8–10; Fruit, Pome, Group 11–10; Fruit, Citrus, Group 10–10; Pineapple; and Coffee; and Tolerances without U.S. Registration in/on Corn, Sweet, Kernel Plus Cob with Husks Removed as Part of the U.S.-Canada Regulatory Cooperation Council (RCC) Pilot Project" at pp. 38–43 in docket ID number EPA–HQ–OPP–2012–0107.

B. Taxicalogical Paints af Departure/Levels af Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gav/pesticides/factsheets/riskassess.htm*.

A summary of the toxicological endpoints for spirotetramat used for human risk assessment is discussed in Unit III. B. Toxicological Points of Departure/Levels of Concern of the final rule published in the **Federal Register** issue of May 18, 2011 (76 FR 28675) (FRL–8865–8).

C. Expasure Assessment

1. *Dietary expasure from faad and feed uses.* In evaluating dietary exposure to spirotetramat, EPA considered exposure under the petitioned-for tolerances as well as all existing spirotetramat tolerances in 40 CFR 180.641. EPA assessed dietary exposures from spirotetramat in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. Such effects were identified for spirotetramat.

In estimating acute dietary exposure, EPA used Dietary Exposure Evaluation Model software with the Food Commodity Intake Database (DEEM–FCID) Version 3.16, which uses food consumption data from the U.S. Department of Agriculture's (USDA) National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA) from 2003 through 2008. As to residue levels in food, EPA assumed 100 percent crop treated (PCT) and tolerance-level residues for all commodities. DEEM version 7.81 default processing factors were used for processed commodities, where provided.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA's 2003–2008 NHANES/WWEIA. As to residue levels in food, EPA used 100 PCT, average field trial residues for some commodities, and tolerance-level residues for the remaining commodities. Empirical processing factors were used for apple, grape, orange, pineapple, and tomato juices; applesauce; and dried apple and tomato. DEEM version 7.81 default processing factors were used for other processed commodities, where provided.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that spirotetramat does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue information.* Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

2. *Dietary exposure from drinking water.* The residues of concern in drinking water for risk assessment purposes are spirotetramat and the metabolites spirotetramat-enol and spirotetramat-ketohydroxy. The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for spirotetramat and its metabolites in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of spirotetramat and its metabolites. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the Tier 1 Rice Model and Screening Concentration in Ground Water (SCI–GROW) model, the estimated drinking water concentrations (EDWCs) of spirotetramat and its metabolites for surface water are estimated to be 395 parts per billion (ppb) for acute and chronic exposures. For ground water, the EDWCs are estimated to be 1.24×10^{-3} ppb for acute and chronic exposures.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For the acute and chronic dietary risk assessments, the water concentration value of 395 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Spirotetramat is not registered for any specific use patterns that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity." EPA has not found spirotetramat to share a common mechanism of toxicity with any other substances, and spirotetramat does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that spirotetramat does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children (Start)

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act (FQPA) Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional SF when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* There was no evidence of increased qualitative or quantitative susceptibility of rats or rabbits to prenatal or postnatal exposure to spirotetramat. In the rat developmental toxicity study, offspring toxicity was observed at the same dose as maternal toxicity, at the limit dose. In the developmental toxicity study in the rabbit, only maternal toxicity was observed. In both reproductive toxicity studies, offspring toxicity (decreased body weight) was observed at the same dose as parental toxicity. Therefore, no evidence of increased susceptibility of offspring was found across four relevant toxicity studies with spirotetramat.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for spirotetramat is complete. Immunotoxicity and subchronic neurotoxicity studies were reported as data gaps for spirotetramat in the last published final rule, published in the **Federal Register** issue of May 18, 2011. Since that final rule, an immunotoxicity study in rats has been submitted and reviewed by the Agency. Although the toxicology database for spirotetramat shows effects in the thymus gland in dog studies, the results of the rat immunotoxicity study do not indicate any functional deficits in the immune function. Thymus involution has been demonstrated to occur when hypothyroidism is induced in animals, so it is reasonable to conclude that the thymus involution in dogs was secondary to thyroid effects, rather than a direct effect on the immune system.

The Agency has also recently received the subchronic neurotoxicity study in rats. Though a complete review of the study is pending, a preliminary review of the recently submitted subchronic rat neurotoxicity study does not indicate a concern for neurotoxicity, even at relatively high dose levels, which is consistent with the Agency's conclusions regarding the potential neurotoxicity of spirotetramat in the May 18, 2011 final rule, and consistent with what the Agency expects for structurally related compounds. In the available acute neurotoxicity study, the only evidence of neurotoxicity was based on decreased motor and locomotor activity, which occurred only at relatively high dose levels (200 milligrams/kilogram body weight (mg/kg bw)). The observed decreased motor activity was not considered evidence of direct neurotoxicity because there were no effects on movement or gait and there were no confirmatory findings of neurological pathology observed at relatively high doses. Moreover, the existing toxicological database indicates that spirotetramat is not a neurotoxic chemical in mammals. Finally, the acute, subchronic, and developmental neurotoxicity studies available for structurally related compounds (spirodiclofen and spiromesifen) do not show evidence of neurotoxicity in adults or the young.

ii. There is no evidence that spirotetramat results in increased

susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study.

iii. There are no residual uncertainties identified in the exposure databases. The acute and chronic dietary food exposure assessments were performed based on 100 PCT and tolerance-level or average field trial residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to spirotetramat in drinking water. These assessments will not underestimate the exposure and risks posed by spirotetramat.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to spirotetramat will occupy 16% of the aPAD for children 1–2 years old, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to spirotetramat from food and water will utilize 76% of the cPAD for children 1–2 years old, the population group receiving the greatest exposure. There are no residential uses for spirotetramat.

3. *Short- and Intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account short- and intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Short- and intermediate-term adverse effects were identified; however, spirotetramat is not registered for any use patterns that would result in short- or intermediate-term residential exposure. Short- and intermediate-term risks are assessed based on short- and intermediate-term residential exposures plus chronic dietary exposure. Because there are no short- or intermediate-term residential exposures and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess short- and intermediate-term risk), no further assessment of short- or intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating short- and intermediate-term risk for spirotetramat.

4. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, spirotetramat is not expected to pose a cancer risk to humans.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to spirotetramat residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology, a high-performance liquid chromatography with tandem mass spectrometry (HPLC–MS/MS), is available to enforce the tolerance expression.

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

B. International Residue Limits

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

The Codex has established a MRL for spirotetramat in or on pome fruit at 0.7 ppm, which is harmonized with the pome fruit group 11–10 tolerance in the United States. However, Codex has established other MRLs for which the United States cannot harmonize tolerances: A Codex MRLs on fruiting vegetables except chili pepper at 1 ppm, chili pepper at 2 ppm, and dried chili pepper at 15 ppm are not harmonized with the U.S. tolerance on fruiting vegetable group 8–10 at 2.5 ppm; and a Codex MRL for citrus at 0.5 ppm is not harmonized with a U.S. tolerance on citrus 0.60 ppm. These MRLs are different than the tolerances established for spirotetramat in the United States because the residue definition in the United States includes additional metabolites not included in the Codex residue definition. Because of the differences in the residue definition, the residue field trial information in the United States results in different calculated tolerances than those established by Codex; therefore, the United States cannot harmonize with Codex.

C. Revisions to Petitioned-For Tolerances

Based on the data submitted with the petition, EPA is revising the proposed tolerances in or on watercress from 1.5 ppm to 2.0 ppm; vegetable, bulb, group 3–07 from 0.6 ppm to 0.80 ppm; and artichoke, globe from 2 ppm to 1.5 ppm. The Agency revised these tolerance levels based on analysis of the residue field trial data using the Organization for Economic Co-operation and Development (OECD) tolerance calculation procedures. Additionally, the Agency determined that the proposed tolerances in or on pineapple, process residue, and coffee, roast beans, are not necessary because the calculated tolerance values for these processed commodities are less than the recommended tolerances in or on pineapple and coffee, green bean. Finally, based on the available processing data, EPA determined that a tolerance should be established in or on coffee, instant at 0.50 ppm.

V. Conclusion

Therefore, tolerances are established for residues of spirotetramat, cis-3-(2,5-dimethlyphenyl)-8-methoxy-2-oxo-1-azaspiro[4.5]dec-3-en-4-yl-ethyl carbonate, and its metabolites, cis-3-(2,5-dimethylphenyl)-4-hydroxy-8-methoxy-1-azaspiro[4.5]dec-3-en-2-one, cis-3-(2,5-dimethylphenyl)-3-hydroxy-8-methoxy-1-azaspiro[4.5]decane-2,4-dione, cis-3-(2,5-dimethylphenyl)-8-methoxy-2-oxo-1-azaspiro[4.5]dec-3-en-4-yl beta-D-glucopyranoside, and cis-3-(2,5-dimethylphenyl)-4-hydroxy-8-methoxy-1-azaspiro[4.5]decan-2-one, in or on taro, leaves at 9.0 ppm; watercress at 2.0 ppm; pomegranate at 0.50 ppm; banana at 4.0 ppm; vegetable, bulb,

group 3–07 at 0.80 ppm; berry, low growing, except strawberry, subgroup 13–07H at 0.30 ppm; bushberry subgroup 13–07B at 3.0 ppm; artichoke, globe at 1.5 ppm; fruit, pome, group 11–10 at 0.70 ppm; vegetable, fruiting, group 8–10 at 2.5 ppm; fruit, citrus, group 10–10 at 0.60 ppm; pineapple at 0.30 ppm; coffee, green bean at 0.20 ppm; and coffee, instant at 0.50 ppm. This regulation additionally removes established tolerances of spirotetramat in or on onion, bulb, subgroup 3A–07 at 0.30 ppm; fruit, citrus, group 10 at 0.60 ppm; fruit, pome, group 11 at 0.70 ppm; okra at 2.5 ppm; and vegetable, fruiting, group 8 at 2.5 ppm. Finally, this final rule removes the time-limited tolerances in or on onion, dry bulb at 0.3 ppm and watercress at 1.5 ppm because they are superseded by new permanent tolerances.

VI. Statutory and Executive Order Reviews

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

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

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

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

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

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

Dated: May 1, 2013.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.641:

■ i. Remove from the table in paragraph (a)(1) the commodities "Fruit, citrus, group 10," "Fruit, pome, group 11," "Okra," "Onion, bulb, subgroup 3A–07 [1]," and "Vegetable, fruiting, group 8."

■ ii. Add alphabetically to the table in paragraph (a)(1) the following commodities.

■ iii. Revise paragraphs (b) and (c).

The amendments read as follows:

§ 180.641 Spirotetramat; tolerances for residues.

(a) * * *

(1) * * *

Commodity	Parts per million
* * * * *	
Artichoke, globe	1.5
* * * * *	
Berry, low growing, except strawberry, subgroup 13–07H	0.30
* * * * *	
Bushberry subgroup 13–07B	3.0
* * * * *	
Coffee, green bean	0.20
Coffee, instant	0.50
* * * * *	
Fruit, citrus, group 10–10	0.60
Fruit, pome, group 11–10	0.70
* * * * *	
Pineapple	0.30
* * * * *	
Pomegranate	0.50
* * * * *	
Taro, leaves	9.0
Vegetable, bulb, group 3–07	0.80
* * * * *	
Vegetable, fruiting, group 8–10	2.5
* * * * *	
Watercress	2.0
* * * * *	

* * * * *

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* Tolerances with regional registrations are established for residues of the insecticide spirotetramat, including its metabolites and degradates, in or on the commodities in the table below. Compliance with the

tolerance levels specified below is to be determined by measuring only the sum of spirotetramat (cis-3-(2,5-dimethylphenyl)-8-methoxy-2-oxo-1-azaspiro[4.5]dec-3-en-4-yl-ethyl carbonate) and its metabolites cis-3-(2,5-dimethylphenyl)-4-hydroxy-8-methoxy-1-azaspiro[4.5]dec-3-en-2-one, cis-3-(2,5-dimethylphenyl)-3-hydroxy-8-methoxy-1-azaspiro[4.5]decane-2,4-dione, cis-3-(2,5-dimethylphenyl)-8-methoxy-2-oxo-1-azaspiro[4.5]dec-3-en-4-yl beta-D-glucopyranoside, and cis-3-(2,5-dimethylphenyl)-4-hydroxy-8-methoxy-1-azaspiro[4.5]decan-2-one, calculated as the stoichiometric equivalent of spirotetramat, in or on the following commodities.

Commodity	Parts per million
Banana	4.0

* * * * *

[FR Doc. 2013–11195 Filed 5–14–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2012–0002; FXES11130900000C6–123–FF09E30000]

RIN 1018–AX59

Endangered and Threatened Wildlife and Plants; Removal of the Magazine Mountain Shagreen From the List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: Under the authority of the Endangered Species Act of 1973, as amended (Act), we, the U.S. Fish and Wildlife Service (Service), remove the Magazine Mountain shagreen (*Inflectarius magazinensis*) from the Federal List of Endangered and Threatened Wildlife (delist). This determination is based on a thorough review of the best available scientific and commercial data, which indicate that the threats to this species have been eliminated or reduced to the point that the species has recovered and no longer meets the definition of threatened or endangered under the Act.

DATES: This rule becomes effective June 14, 2013.

ADDRESSES: This final rule, comments and materials received, as well as supporting documentation used in the preparation of this rule, are available on the Internet at *http://www.regulations.gov* [Docket No. FWS–R4–ES–2012–0002]. These materials are also available for public inspection, by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Arkansas Ecological Services Field Office, 110 South Amity Road, Suite 300, Conway, AR 72032; 501–513–4470 (phone); 501–513–4480 (fax). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Services (FIRS) at 800–877–8339.

FOR FURTHER INFORMATION CONTACT: James F. Boggs, Field Office Supervisor, Phone: 501–513–4470. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339. Direct all written questions or requests for additional information to: MAGAZINE MOUNTAIN SHAGREEN QUESTIONS, U.S. Fish and Wildlife Service, Arkansas Ecological Services Field Office, 110 South Amity Road, Suite 300, Conway, AR 72032.

SUPPLEMENTARY INFORMATION:

Background

Previous Federal Actions—On April 17, 1989, we published a final rule in the **Federal Register** (54 FR 15206) listing Magazine Mountain shagreen as threatened. The final rule identified the following threats to Magazine Mountain shagreen: loss of habitat due to a military proposal to conduct troop and heavy equipment movements and artillery operations on Magazine Mountain; loss of habitat due to development of a new State park on Magazine Mountain that would include construction of new buildings, roads, and trails; increased recreational use due to development of the State park; U.S. Department of Agriculture Forest Service (USFS) use of the land; and increased vulnerability to collecting and adverse habitat modification due to the species' restricted range. On February 1, 1994, we approved the Magazine Mountain Shagreen Recovery Plan (Service 1994, 12 pp.). On July 6, 2009, we initiated a 5-year status review of this species (74 FR 31972). This rule completes the status review. On June 19, 2012, we published a proposed rule in the **Federal Register** (77 FR 36460) to delist the Magazine Mountain shagreen. Additional details on previous Federal actions were provided in the proposed delisting rule (see 77 FR 36461).

Species Information—Magazine Mountain shagreen (*Inflectarius magazinensis*) is a medium-sized, dusky brown or buff-colored snail, measuring approximately 0.5 inch (in.; 13 millimeters (mm)) wide and 0.3 in. (7 mm) high. Although the species' taxonomic name has changed since it was listed in 1989, Magazine Mountain shagreen has not been split from or combined with any other land snail species or subspecies. The entity that is now called *Inflectarius magazinensis* is the same entity that was known as *Mesodon magazinensis*. Additional details on the taxonomy of the species, including the name change, were provided in the proposed delisting rule (see 77 FR 36461).

Magazine Mountain shagreen is historically known from only the north slope of Magazine Mountain, Logan County, Arkansas (Pilsbry and Ferriss 1907, p. 545; Caldwell *et al.* 2009, p. 4). The south slopes of Magazine Mountain were surveyed extensively by Caldwell (1986 in Service 1994, p. 3) and Caldwell *et al.* (2009, p. 4), but they did not find Magazine Mountain shagreen on the south slopes. Populations occur in the portion of talus (a sloping mass of loose rocks) covered by vegetation or leaf litter at an elevation of 2,200 feet (ft; 670.6 meters (m)) to 2,600 ft (792.5 m) in the Savanna Sandstone formation calved (broken off or splintered into pieces) due to weathering and erosion of interbedded shales (Caldwell *et al.* 2009, p. 4; Service 1994, p. 3). The majority of talus is above 2,200 ft (670.6 m) elevation on the north and west slopes, with Magazine Mountain shagreen populations occurring between 2,400 ft (731.5 m) and 2,600 ft (792.5 m). In the north slope of Bear Hollow, the talus begins at approximately 2,200 ft (670.6 m) and in some calved areas extends to near 2,265 ft (690.4 m) elevation. In Bear Hollow, Magazine Mountain shagreen is restricted to the upper vegetated elevation end of this talus range (Caldwell *et al.* 2009, pp. 4–5).

The rocky slopes formed by the removal of softer, more easily eroded shale on the steep slopes cause the more resistant sandstone capping Magazine Mountain to break off and accumulate along the flanks. This situation provides the ideal habitat for Magazine Mountain shagreen (Cohoon and Vere 1988 in Caldwell *et al.* 2009, p. 6). The total amount of available habitat for Magazine Mountain shagreen consists of approximately 21.6 acres (ac; 8.75 hectares (ha)) at 27 talus habitats on Magazine Mountain's west and north slopes (Caldwell *et al.* 2009, pp. 4–5).

The geology and forest community of Magazine Mountain were summarized by Caldwell *et al.* (2009, pp. 4–12). The average annual temperature is 5.9

degrees Fahrenheit (°F; 3.3 degrees Celsius (°C)) cooler on the summit than surrounding areas, and mid-summer temperatures are frequently 10 to 25 °F (5.6 to 13.9 °C) cooler. The mean annual precipitation at the summit of Magazine Mountain is 55 in. (139.7 centimeters (cm)), approximately 5 in. (12.7 cm) greater than the lower elevations. The USFS owns all lands on Magazine Mountain, while the Arkansas Department of Parks and Tourism (ADPT) has a long-term special use permit to operate the State park on the summit (Service 1994, p. 3; Whalen 2012, pers. comm.).

Little information is available on land snail associations (e.g., presence/absence of other land snails to predict habitat quality or occurrence of Magazine Mountain shagreen). Caldwell *et al.* (2009, pp. 13–14) determined the relative abundance (number of a particular species as a percentage of the total population of a given area) of species found with Magazine Mountain shagreen. Land snails such as the blade vertigo (*Vertigo milium*) and pale glyph (*Glyphyalinia lewisiana*) were found only on the south slope talus, while the oakwood liptooth (*Millerelix dorfeuilliana*) and immature *Succineidae* species were found on the north slope talus. Thus, presence of oakwood liptooth and immature *Succineidae* in habitats suitable for Magazine Mountain shagreen may predict its occurrence despite negative survey results.

Caldwell *et al.* (2009, pp. 15–16) presented the only information on life history and reproductive biology for Magazine Mountain shagreen (see Recovery section below). They also presented the first report on food habits for Magazine Mountain shagreen (Caldwell *et al.* 2009, p. 16). Magazine Mountain shagreen has generalist feeding habits (able to utilize many food sources) similar to other land snails in its taxonomic family, Polygyridae (Blinn 1963, pp. 501–502; Foster 1936, pp. 26–31; Dourson 2008, pp. 155–156; Caldwell *et al.* 2009, p. 16). Therefore, the species is not limited by a dependence on one or a few food sources (Caldwell *et al.* 2009, p. 16).

Prolonged drought or concomitant warming of temperatures could adversely affect this species by compromising nesting sites, egg masses, and surface feeding (Caldwell *et al.* 2009, p. 15). However, there is no data to establish that such effects are reasonably certain to occur. Additional details on habitat requirements were provided in the proposed delisting rule (77 FR 36461).

Summary of Comments and Recommendations

In the proposed rule published on June 19, 2012 (77 FR 36460), we requested that all interested parties submit written comments on the proposal by August 20, 2012. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. A newspaper notice inviting general public comment was published in the *Arkansas Democrat Gazette*. We did not receive any requests for a public hearing, so none was conducted.

Peer Review

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinion from three knowledgeable individuals with scientific expertise that included familiarity with the Magazine Mountain shagreen and its habitat, biological needs, and threats. We received responses from all three peer reviewers.

We reviewed all comments received from the peer reviewers for substantive issues and new information regarding the delisting of Magazine Mountain shagreen. The peer reviewers generally concurred with our methods and conclusions and provided additional information, clarifications, and suggestions to improve the final rule. Peer reviewer comments are addressed in the following summary and incorporated into the final rule as appropriate.

Peer Reviewer Comments

(1) *Comment:* One peer reviewer suggested that Mount Magazine State Park highlight this species for its rarity, biology, and as a management success story with cooperation between the Service, USFS, and ADPT.

Our Response: The USFS and ADPT currently highlight this species via visitor center displays and park naturalist presentations. The Service will continue to work with the State and USFS during post-delisting monitoring activities to manage Magazine Mountain shagreen and its habitat.

(2) *Comment:* One peer reviewer stated that no population data are available. The peer reviewer stated that pre- and post-listing personal observations indicate population stability. The reviewer also discussed the natural threat of fire to more vulnerable clutch sites and juveniles.

Our Response: The Service agrees that no data are available to estimate population size for this species, and due to the species' rupicolous (living or growing among rocks) nature, mark–recapture monitoring techniques used to estimate population size would be highly ineffective and cause unnecessary habitat destruction. Therefore, mark–recapture sampling techniques have not been used with this species and will not be utilized during post-delisting monitoring.

The Service acknowledged and discussed the threat of fire to Magazine Mountain shagreen in the proposed delisting rule (77 FR 36462 and 36472). The USFS provides buffers around Magazine Mountain shagreen habitats during prescribed burns, and restricts burning to nonreproductive periods and pre-leaf-fall to ensure adequate leaf litter for the following spring reproductive period. The USFS's prescribed fire program and its associated timing and frequency reduces the likelihood of catastrophic wild fires.

(3) *Comment:* One peer reviewer stated that the post-delisting monitoring program was well thought out but suggested adding a university partner.

Our Response: The Service, USFS, and State have incorporated a university partner into the post-delisting monitoring plan.

(4) *Comment:* One peer reviewer questioned whether natural gas exploration and extraction on Magazine Mountain would affect Magazine Mountain shagreen.

Our Response: The USFS has designated Magazine Mountain as a Special Interest Area. This designation does not allow for surface occupancy of natural gas infrastructure. Although the USFS has leased mineral rights to Magazine Mountain, all natural gas extraction would occur using horizontal directional drilling techniques from locations outside the designated Special Interest Area. For this reason, the Service determined that natural gas exploration is not a threat to Magazine Mountain shagreen.

(5) *Comment:* Two peer reviewers questioned whether HOBO® data loggers were the only type of temperature and relative humidity data loggers that could be used during post-delisting monitoring.

Our Response: We acknowledge in the post-delisting monitoring plan that HOBO® or similar type data loggers can be used for collecting air and relative humidity data.

(6) *Comment:* One peer reviewer suggested that post-delisting monitoring should occur only during daylight hours for safety reasons.

Our Response: We acknowledge that night surveys are not practical due to safety concerns. We clarify in the post-

delisting monitoring plan that day surveys must be conducted in the early morning with ambient temperatures approximately 64 °F (17.8 °C) and a relative humidity of 80 percent or greater. Monitoring will not be conducted when ambient air temperature is less than or equal to 55 °F (12.7 °C).

Comments From States

Section 4(b)(5)(A)(ii) of the Act states that the Secretary must give actual notice of a proposed regulation under Section 4(a) to the State agency in each State in which the species is believed to occur, and invite the comments of such agency. Section 4(i) of the Act states, "the Secretary shall submit to the State agency a written justification for his failure to adopt regulations consistent with the agency's comments or petition." The Service submitted the proposed regulation to the State of Arkansas but received no formal comments from the State regarding the proposal.

Public Comments

No public comments were received for the proposal to delist the Magazine Mountain shagreen.

Summary of Changes From Proposed Rule

1. In the Species Information section above, we clarify that the USFS owns the summit of Magazine Mountain, and that the ADPT has a long-term special use permit to operate the State park on the summit.

2. In the Recovery Action 1 section below, we clarify that the USFS designation of Magazine Mountain as a Special Interest Area also prohibits surface occupancy of natural gas infrastructure.

3. In the Recovery Action 2 section below, we add the USFS Magazine Mountain shagreen population monitoring data from 2012.

4. In the Recovery Action 4 section below, we clarify that sampling techniques (e.g., mark–recapture) used to estimate population size for Magazine Mountain shagreen would be ineffective due to the species' rupicolous nature and, therefore, would likely result in unnecessary habitat disturbance.

Recovery

Section 4(f) of the Act directs us to develop and implement recovery plans for the conservation and survival of endangered and threatened species unless we determine that such a plan will not promote the conservation of the species. Recovery planning includes the development of a recovery outline shortly after a species is listed, and preparation of a draft and final recovery plan. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new threats to the species, as new, substantive information becomes available. The recovery plan identifies site-specific management actions that will achieve recovery of the species, measurable criteria that set a trigger for review of the species' status, and methods for monitoring recovery progress.

Recovery plans are not regulatory documents and are instead intended to establish goals for long-term conservation of listed species, define criteria that are designed to indicate when the threats facing a species have been removed or reduced to such an extent that the species may no longer need the protections of the Act, and provide guidance to our Federal, State, other governmental and nongovernmental partners on methods to minimize threats to listed species. There are many paths to accomplishing recovery of a species, and recovery may be achieved without all criteria being fully met. For example, one or more criteria may be exceeded while other criteria may not yet be accomplished. In that instance, we may determine that the threats are minimized sufficiently and the species is robust enough to delist. In other cases, recovery opportunities may be discovered that were not known when the recovery plan was finalized. These opportunities may be used instead of methods identified in the recovery plan. Likewise, new information on the species may lead to changes in the criteria. Recovery of a species is a dynamic process requiring adaptive management that may, or may not, fully follow the guidance provided in a recovery plan.

The Magazine Mountain shagreen Recovery Plan was approved by the Service on February 1, 1994 (Service 1994, 12 pp.). The recovery plan includes the following delisting criteria:

1. Magazine Mountain shagreen will be considered recovered when long-term protection of its habitat is achieved; and

2. It is determined from 10 years of data that the snail population is stable or increasing.

Long-term protection of habitat will be achieved when a memorandum of understanding (MOU) between the USFS and the Service is developed and implemented. The MOU must delineate measures protecting the species and its habitat, must be continuous in effect, and must require a minimum 2-year written notification prior to cancellation by either party. Criteria for determining what constitutes a stable population were to be determined through implementation of recovery actions (Service 1994, p. 6). Through implementation of these actions, the criteria chosen as the most appropriate for determining a stable population were persistence over time (shown by the number of Magazine Mountain shagreen individuals collected annually), annual catch per unit effort, and size, quality, and stability of habitat.

The recovery plan outlines six primary recovery actions to meet the recovery criteria described above and, therefore, address threats to the species. The six recovery actions for delisting Magazine Mountain shagreen have been met, as described below. Additionally, the level of protection currently afforded to the species and its habitat and the current status of threats are outlined in the Summary of Factors Affecting the Species section below.

Recovery Action 1: Provide Long-Term Protection for Magazine Mountain Shagreen Through a Memorandum of Understanding (MOU) Between the USFS and the Service To Protect Habitat

To meet the recovery criterion to provide long-term habitat protection for Magazine Mountain shagreen, in 2005, the Service, USFS Ozark-St. Francis National Forest, and ADPT entered into a MOU that provides for long-term cooperation in the management and protection of the species and its habitat on Magazine Mountain. The MOU is a continuing agreement without a designated termination date.

In 1987, the USFS designated Magazine Mountain, including the entire range of Magazine Mountain shagreen, as a Special Interest Area (Whalen 2013, pers. comm.). The USFS expanded the original Special Interest Area to include areas at lower elevations in the 2005 Revised Land Resource Management Plan (USFS 2005, p. 2–43). In 2007, the USFS developed a new management plan for the Special Interest Area that provided additional protection to Magazine Mountain shagreen from prescribed fires (USFS 2007, p. 10). Including additional protections provided through the 2007 management plan, the Special Interest Area designation prohibits timber harvest, prescribed burning from leaf fall until the end of Magazine Mountain shagreen's reproductive period, application of aerial fire retardant, road construction, surface occupancy of natural gas infrastructure and other

surface-disturbing activities associated with mineral extraction, and recreational development on talus slopes.

Through development and implementation of the MOU and protections provided through the Special Interest Area designation, we consider this action complete.

Recovery Action 2: Determine and Monitor Population Parameters, Including Mapping and Monitoring the Distribution of Magazine Mountain Shagreen and Its Habitat and Designing and Implementing a Standard Survey Procedure

Surveys: In developing the monitoring strategy for Magazine Mountain shagreen, 10 specific sampling stations were established in 1996; these sampling stations later served as the long-term monitoring locations for the USFS. Each station was marked with permanent markers so that later annual monitoring effort could be repeated at the exact location (Robison 1996, p. 6). The survey protocol uses visual encounter searches (VES) to determine, map, and monitor Magazine Mountain shagreen population parameters and habitat (Robison 1996, pp. 7–24). VES involves field personnel walking through an area or habitat for a prescribed time period systematically searching for animals and has been used effectively with amphibians in habitats that are widely spaced, such as the talus slopes that Magazine Mountain shagreen inhabits (Crump and Scott 1994 in Robison 1996, pp. 8–9). The assumption of VES is that the shorter duration in time to encounter an animal, the more common and abundant the animal is at any particular site (Robison 1997, p. 7).

Historical surveys (pre-1996; Pilsbry and Ferriss 1906, Caldwell 1986) for Magazine Mountain shagreen did not report population estimates or catch per unit effort (number of snails collected per time period spent surveying). More recent surveys (since 1996; see discussion and Tables 1, 2, and 3 below) have reported catch per unit effort but did not estimate population size. Since historical collections did not report the same information as more recent collections, a comparative analysis is not possible.

In 1996, two surveys were conducted for Magazine Mountain shagreen at each of the 10 USFS sampling stations (Table 1; Robison 1996, pp. 17–20). Using VES, live Magazine Mountain shagreen were found at four sampling stations during the period May 24–27, 1996, and four stations during June 6–8, 1996 (Table 1; Robison 1996, p. 19). At all sites, dead Magazine Mountain shagreen shells were encountered before live individuals were discovered (Table 1). A third survey was conducted by Robison in May 1997 (Table 1; Robison 1997, pp. 16–17). Live individuals and dead shells were found at four and five sampling stations, respectively (Table 1).

The USFS conducted Magazine Mountain shagreen population monitoring from 1998 through 2012 using the same sampling protocols and 10 stations established by Robison (1996). Station 10 was dropped from surveys in 2002, with Service approval, as no live or dead Magazine Mountain shagreen had been collected at this station during any previous surveys. However, surveys at Station 10 began again in 2012. One person-hour (60 minutes) per station was spent searching for Magazine Mountain shagreen for all survey years (1998–2012, except during 2000, when no surveys were conducted, and during 2007, when three stations were not sampled).

TABLE 1—RESULTS OF TIMED SEARCHES CONDUCTED IN 1996 AND 1997 AT 10 MAGAZINE MOUNTAIN SHAGREEN (MMS) MONITORING STATIONS ON MAGAZINE MOUNTAIN, LOGAN COUNTY, ARKANSAS (ROBISON 1996, PP. 33–35; ROBISON 1997, PP. 16–17). TIME IS REPORTED IN MINUTES TO FIRST ENCOUNTER. THE NUMBER OF INDIVIDUALS COLLECTED IS FOR A 60-MINUTE SEARCH PERIOD OR NUMBER OF INDIVIDUALS PER HOUR AT EACH STATION (CATCH PER UNIT EFFORT)

Station	Dead MMS Shell						Live MMS					
	24–27 May 1996		6–8 June 1996		19–20 May 1997		24–27 May 1996		6–8 June 1996		19–20 May 1997	
	Number	Time (min)	Number	Time (min)	Number	Time (min)	Number	Time (min)	Number	Time (min)	Number	Time (min)
1	0	0	0	0	0	0	0	0	0	0	0	0
2	1	11	1	10	0	0	0	0	0	0	0	0
3	5	6	0	0	3	8	3	7	0	0	2	13
4	3	5	2	7	1	9	0	0	0	0	0	0
5	3	16	4	12	2	17	2	18	2	18	1	30
6	2	4	1	9	4	8	2	12	1	10	1	19
7	2	12	2	6	1	14	0	0	1	9	1	46
8	3	4	2	7	0	0	1	9	2	13	0	0
9	0	0	0	0	0	0	0	0	0	0	0	0
10	0	0	0	0	0	0	0	0	0	0	0	0
Total # of individuals or shells	19		12		11		8		6		5	
Average time to encounter		8.3		8.5		11.2		11.5		12.5		27

The number of live and dead Magazine Mountain shagreen collected at each station during the period 1998–2012 are shown in Table 2. The amount of time (minutes) that elapsed until the first encounter of live and dead Magazine Mountain shagreen at each station during the period 1998–2012 surveys is shown in Table 3.

Overall, the number of live Magazine Mountain shagreen individuals collected annually from 1996–2012 indicates the species is persisting over time. Annual fluctuation in numbers of live Magazine Mountain shagreen individuals collected is likely attributable to climatic or temporal conditions or both (Tables 1, 2, and 3) because the snails are more active during times of high humidity and cooler temperatures (USFS 2009, pp. 1, 4–5).

The number of dead Magazine Mountain shagreen individuals collected annually from 1996–2012 has shown greater annual fluctuation than the number of live individuals (Tables 1, 2, and 3). A closely related species, shagreen (*Inflectarius inflectus*), is slightly smaller than Magazine Moutain shagreen with a "greater diameter" ranging from 0.37 (9.5 mm) to 0.44 in. (11.3 mm) (mean = 0.43 in. (10.9 mm)) compared to 0.50 (12.7 mm) to 0.55 in. (14.0 mm) (mean = 0.52 in. (13.3 mm)) for Magazine Mountain shagreen (Caldwell *et al.* 2009, p. 2). However, individuals of shagreen (*Inflectarius inflectus*), on which aperture (the main opening of the snail's shell) teeth are reduced, look very similar to Magazine Mountain shagreen. Therefore, accurate identification of dead Magazine Mountain shagreen, and to a much lesser extent live individuals, may be easily confused with the more common and abundant shagreen depending on surveyor experience, which has been variable during the 17-year monitoring period.

TABLE 2—NUMBER OF INDIVIDUALS LOCATED DURING 60-MINUTE SEARCH PERIODS AT 10 MAGAZINE MOUNTAIN SHAGREEN (MMS) MONITORING STATIONS ON MAGAZINE MOUNTAIN, LOGAN COUNTY, ARKANSAS, FROM 1998 TO 2012 (USFS UNPUBLISHED DATA SHEETS 1999–2012, USFS 2009). THE NUMBER OF INDIVIDUALS COLLECTED IS FOR A 60-MINUTE SEARCH PERIOD OR NUMBER OF INDIVIDUALS PER HOUR AT EACH STATION (CATCH PER UNIT EFFORT). D = DEAD SHELLS; L = LIVE SNAILS; NS = NOT SAMPLED; NR = NOT RECORDED; DM = DATA MISSING FROM USFS FILES

Station	Dead (D) or Live (L)	Year															
		1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	1998–2012
1	D	0	0	NS	1	0	0	0	0	0	NR	0	0	0	0	0	1
	L	0	1	NS	0	2	0	1	2	0	2	0	0	0	0	0	8
2	D	0	1	NS	0	0	0	0	2	DM	NR	0	0	0	0	0	3
	L	0	0	NS	0	0	0	1	0	DM	2	0	0	0	0	0	3
3	D	0	0	NS	1	0	0	0	0	0	NS	0	0	0	0	0	1
	L	0	0	NS	0	0	0	0	0	0	NS	0	0	0	0	0	0
4	D	2	1	NS	2	0	1	1	0	0	NR	1	1	1	0	0	10
	L	1	0	NS	0	0	0	0	0	0	1	2	0	0	0	0	4
5	D	0	0	NS	1	1	1	3	0	0	NS	1	3	5	0	0	15
	L	1	1	NS	1	0	0	3	3	2	NS	3	0	0	1	0	15
6	D	2	0	NS	3	0	0	4	NR	0	NR	0	1	4	0	3	17
	L	2	0	NS	2	0	2	3	4	1	1	0	0	0	0	1	16
7	D	4	0	NS	0	0	0	1	0	DM	0	0	0	1	0	0	6
	L	0	0	NS	0	0	0	0	2	DM	1	0	0	0	3	0	6
8	D	0	0	NS	0	0	1	0	0	0	NS	1	1	2	0	0	5
	L	0	0	NS	0	0	0	1	2	0	NS	1	0	0	0	0	5
9	D	0	0	NS	0	0	0	0	0	0	NR	0	0	0	0	0	0
	L	0	0	NS	0	2	0	0	0	1	1	0	0	0	0	0	4
10	D	0	0	NS	0	NS	NS	NS	NS	NS	NS	NS	NS	NS	NS	0	0
	L	0	0	NS	0	NS	NS	NS	NS	NS	NS	NS	NS	NS	NS	0	0
Totals	D	8	2	NS	8	1	3	9	2	0	NR/NS	3	6	13	0	3	58
	L	4	2	NS	3	4	2	9	13	4	8	6	0	0	4	1	60
	D + L	12	4	NS	11	5	5	18	15	4	8	9	6	13	4	4	118

TABLE 3—MINUTES TO FIRST ENCOUNTER OF MAGAZINE MOUNTAIN SHAGREEN INDIVIDUAL RESULTS OF TIMED SEARCHES CONDUCTED BY THE USFS AT 10 MAGAZINE MOUNTAIN SHAGREEN (MMS) MONITORING STATIONS ON MAGAZINE MOUNTAIN, LOGAN COUNTY, ARKANSAS, FROM 1998 TO 2012 (USFS UNPUBLISHED DATA SHEETS 1999–2012, USFS 2009) NUMBERS REPORTED ARE FOR TIME (MINUTES) TO FIRST ENCOUNTER OF A DEAD SHELL OR LIVE SNAIL. TIMED SEARCHES WERE CONDUCTED FOR 60 MINUTES AT EACH STATION IN EACH YEAR, EXCEPT WHERE OTHERWISE INDICATED. D = DEAD SHELLS; L = LIVE SNAILS; NS = NOT SAMPLED; NR = NOT RECORDED; DM = DATA MISSING FROM USFS FILES.

Station	Dead (D) or Live (L)	Year														
		1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
1	D	0	0	NS	30	0	0	0	0	0	NR	0	0	0	0	0
	L	0	11	NS	0	8	0	10	1	0	16	0	0	0	0	0
2	D	0	42	NS	0	0	0	0	10	DM	59	0	0	0	0	0
	L	0	0	NS	0	0	0	37	0	DM	44	0	0	0	0	0
3	D	0	0	NS	42	0	0	0	0	0	NS	0	0	0	0	0
	L	0	0	NS	0	0	0	0	0	0	NS	0	0	0	0	0
4	D	12	1	NS	52	0	14	15	0	0	NR	55	55	20	0	0
	L	18	0	NS	0	0	0	0	0	0	50	30	0	0	0	0
5	D	0	0	NS	12	2	1	30	0	0	NS	1	8	50	0	0
	L	36	27	NS	2	0	0	32	13	21	NS	30	0	0	60	0
6	D	45	0	NS	8	0	0	26	6	0	NR	0	42	3	0	NR
	L	16	0	NS	2	0	10	26	10	19	1	0	0	0	0	NR
7	D	53	0	NS	0	0	0	31	0	DM	0	0	0	29	0	0
	L	0	0	NS	0	0	0	0	3	DM	11	0	0	0	20	0
8	D	0	0	NS	0	0	6	0	0	0	NS	55	50	12	0	0
	L	0	0	NS	0	0	0	32	1	0	NS	50	0	0	0	0
9	D	0	0	NS	0	0	0	0	0	0	NR	0	0	0	0	0
	L	0	0	NS	0	1	0	0	0	18	7	0	0	0	0	0

TABLE 3—MINUTES TO FIRST ENCOUNTER OF MAGAZINE MOUNTAIN SHAGREEN INDIVIDUAL RESULTS OF TIMED SEARCHES CONDUCTED BY THE USFS AT 10 MAGAZINE MOUNTAIN SHAGREEN (MMS) MONITORING STATIONS ON MAGAZINE MOUNTAIN, LOGAN COUNTY, ARKANSAS, FROM 1998 TO 2012 (USFS UNPUBLISHED DATA SHEETS 1999–2012, USFS 2009) NUMBERS REPORTED ARE FOR TIME (MINUTES) TO FIRST ENCOUNTER OF A DEAD SHELL OR LIVE SNAIL. TIMED SEARCHES WERE CONDUCTED FOR 60 MINUTES AT EACH STATION IN EACH YEAR, EXCEPT WHERE OTHERWISE INDICATED. D = DEAD SHELLS; L = LIVE SNAILS; NS = NOT SAMPLED; NR = NOT RECORDED; DM = DATA MISSING FROM USFS FILES.—Continued

Station	Dead (D) or Live (L)	Year														
		1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
10	D	0	0	NS	0	NS	NS	NS	NS	NS	NS	NS	NS	NS	NS	0
	L	0	0	NS	0	NS	NS	NS	NS	NS	NS	NS	NS	NS	NS	0
Average Time to Encounter	D	37	22	NS	29	2	7	26	8	0	59	37	39	29	0	0
	L	23	19	NS	2	5	10	27	6	19	22	37	0	0	40	0

Numerous problems occur with sampling populations of terrestrial snails, including their rupicolous nature (living or growing on or among rocks), which makes it difficult to locate individuals during surveys; effects of climate variables (*e.g.*, temperature and humidity) on snail activity; and practicality of surveys for nocturnal species such as Magazine Mountain shagreen (Newell 1971 and Bishop 1977 in Robison 1996, p. 7). Surveys are optimally conducted at night in late April to early May, dependent upon the onset of spring (moister conditions at the surface, emergence of oak catkins, temperature) (Caldwell *et al.* 2009, p. 17). A rise in relative humidity and drop in temperature usually causes land snails to become more active (Burch and Pearce 1990 in Robinson 1996, p. 7). Therefore, climatic and temporal variation may explain variation in number of live specimens collected from one survey to the next.

Population size, density, and age structure cannot be reliably estimated for a rupicolous species that spends most of the year deep within the talus slopes of Magazine Mountain (Caldwell *et al.* 2009, p. 4). Therefore, these population parameters were not estimated.

Habitat mapping: All talus habitats inhabited by Magazine Mountain shagreen were assessed and spatially mapped in 2007–2008 (see Species Information; Caldwell *et al.* 2009, pp. 23–31). According to that assessment, the total amount of available habitat for Magazine Mountain shagreen consists of approximately 21.6 ac (8.75 ha) at 27 talus habitats on Magazine Mountain's west and north slopes (Caldwell *et al.* 2009, pp. 4–5). The only other habitat assessment for Magazine Mountain shagreen was conducted in 1986, during a comprehensive status review (Caldwell 1986). In 1986, total habitat available to the species was estimated at 540 ac (218.5 ha). No habitat loss has occurred since 1986, but rather more advanced technology using global positioning satellite mapping of talus habitat and detailed analysis of vegetative communities and climatic variables provided a more accurate assessment of the species' habitat.

Summary of Recovery Action 2: As specified in the recovery plan and discussed above, Robison (1996) developed a standardized monitoring strategy for the USFS, and using that strategy, Magazine Mountain shagreen populations have been monitored annually since 1996. Despite variable climatic and temporal conditions preceding annual population monitoring, 18 years of monitoring data appear to indicate a stable Magazine Mountain shagreen population (Tables 1, 2, and 3), as shown by the species' persistence over time and stability of habitat. Surveys conducted by Caldwell *et al.* (2009) from 2007–2008 reaffirmed USFS monitoring results. In addition, as discussed above, all talus habitats inhabited by Magazine Mountain shagreen were mapped. Therefore, we consider this recovery action complete.

Recovery Action 3: Develop Life-History and Habitat Parameters

The first life-history and ecology information for Magazine Mountain shagreen, including information on habitat (geology and forest community), associations with other land snails, food habits, activity periods, breeding, egg deposition and hatching times, growth rates, and limiting factors, was provided in 2009 as a result of surveys conducted by Caldwell *et al.* (2009).

Magazine Mountain shagreen prefers moist woods with some noteworthy differences in the tree and shrub communities present on the north and south slopes of Magazine Mountain (Caldwell *et al.* 2009). Trees such as American linden (*Tilia americana*), sugar maple (*Acer saccharum*), white ash (*Fraxinus americana*), and prickly gooseberry (*Ribes cynosbati*) were found only on the north slopes of Magazine Mountain (Caldwell *et al.* 2009, pp. 6–11). Similar associations with land snails are discussed in the Species Information section.

Caldwell *et al.* (2009, p. 16) suspected that Magazine Mountain shagreen lays eggs only during early spring (late April to early May), and egg-laying is triggered by spring rains. In the second week of May 2007, concurrent with spring rain, Caldwell *et al.* (2009, p. 15–16) located Magazine Mountain shagreen egg masses in the leaf litter covering the talus. Temperatures of the substrate and rock were 63.7 and 64.2 °F (17.6 and 17.9 °C), respectively. See the proposed delisting rule for additional details on egg masses (77 FR 36461).

As discussed above, Caldwell *et al.* (2009) provide the first life-history and ecology information for Magazine Mountain shagreen. Therefore, we consider this action complete.

Recovery Action 4: Determine the Parameters of a Stable Population

Due to the rupicolous nature of Magazine Mountain shagreen, it is not possible, and therefore would be ineffective and result in unnecessary habitat disturbance, to estimate population size or age structure. The size and quality of habitat available to Magazine Mountain shagreen was defined by Caldwell *et al.* (2009, p. 4) (see Species Information). While this estimate is substantially less than Caldwell's previous estimate (1986; see Species Information), it represents a much more rigorous analysis of available habitat using geospatial mapping software to map habitat based on geology, forest community, and species survey data. In addition, monitoring data collected since 1996 by Robison (1996, 1997), USFS (1998–

2012), and Caldwell *et al.* (2009) show that the species is persisting over time despite low numbers of live/dead Magazine Mountain shagreen observed annually (see Tables 1, 2, and 3). Finally, permanent protection and management of habitat supporting Magazine Mountain shagreen on Magazine Mountain indicate that populations are secure and should remain self-sustaining for the foreseeable future. Therefore, we consider this action complete.

Recovery Action 5: Conduct Surveys of Potential Habitat in the Vicinity of Magazine Mountain

Magazine Mountain shagreen surveys have been conducted in similar talus habitats near Magazine Mountain (Caldwell *et al.* 2009, pp. 2–6) in the Arkansas River Valley and areas north of the Arkansas River. Mount Nebo and Petit Jean Mountain were chosen for more intensive surveys in 2007 and 2008. The maximum elevation of Petit Jean Mountain (1,180 ft or 359.7 m) and Mount Nebo (1,755 ft or 534.9 m) is less than the minimum elevation (2,200 ft or 670.6 m) of talus habitat occupied by Magazine Mountain shagreen at Magazine Mountain. Mean average rainfall at the summit of Magazine Mountain is 55 in. (139.7 cm), approximately 5 in. (12.7 cm) greater than lower elevations (Service 1994, p. 3). Forest communities of Mount Nebo more closely resemble the south slope of Magazine Mountain, which is not inhabited by Magazine Mountain shagreen. The unique combination of biotic and abiotic factors found on Magazine Mountain provide the requisite habitat for the endemic Magazine Mountain shagreen (Caldwell *et al.* 2009, pp. 4–6). Because surveys of potential habitat near Magazine Mountain have been conducted, we consider this action complete.

Recovery Action 6: Develop a Monitoring Plan To Ensure Recovery Has Been Achieved

In conjunction with this rule, we have developed a post-delisting monitoring plan (see Post-Delisting Monitoring section below) that includes information on distribution, habitat requirements, and life history of Magazine Mountain shagreen and a monitoring protocol provided by Caldwell *et al.* (2009, pp. 17–18). Therefore, we consider this action complete.

Summary of Factors Affecting the Species

Section 4 of the Act and its implementing regulations (50 CFR part 424) set forth the procedures for listing species, reclassifying species, or removing species from listed status. "Species" is defined by the Act as including any species or subspecies of fish or wildlife or plants, and any distinct vertebrate population segment of fish or wildlife that interbreeds when mature (16 U.S.C. 1532(16)). A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or humanmade factors affecting its continued existence. We must consider these same five factors in delisting a species. We may delist a species according to 50 CFR 424.11(d) if the best available scientific and commercial data indicate that the species is neither endangered nor threatened for the following reasons: (1) The species is extinct; (2) the species has recovered and is no longer endangered or threatened (as is the case with the Magazine Mountain shagreen); and/or (3) the original scientific data used at the time the species was classified were in error.

A recovered species is one that no longer meets the Act's definition of threatened or endangered. Determining whether a species is recovered requires consideration of the same five categories of threats specified in section 4(a)(1) of the Act. For species that are already listed as threatened or endangered, this analysis of threats is an evaluation of both the threats currently facing the species and the threats that are reasonably likely to affect the species in the foreseeable future following the delisting or downlisting and the removal or reduction of the Act's protections.

A species is "endangered" for purposes of the Act if it is in danger of extinction throughout all or a "significant portion of its range" and is "threatened" if it is likely to become endangered within the foreseeable future throughout all or a "significant portion of its range." The word "range" in the significant portion of its range (SPR) phrase refers to the range in which the species currently exists. For the purposes of this analysis, we will evaluate whether the currently listed species, the Magazine Mountain shagreen should be considered threatened or endangered. Then we will consider whether there are any portions of the Magazine Mountain shagreen range in danger of extinction or likely to become endangered within the foreseeable future.

The following analysis examines all five factors currently affecting, or that are likely to affect, the Magazine Mountain shagreen within the foreseeable future. In making this final determination, we have considered all scientific and commercial information available, which includes monitoring data collected from 1996 to 2012 (Robison 1996, USFS 2009, USFS 1999–2012 unpublished data) and life-history and habitat information (Caldwell *et al.* 2009).

Factor A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The 1989 final rule to list Magazine Mountain shagreen as threatened (54 FR 15206) identified the following habitat threats: Possible negative effects from USFS use of the land, a military proposal that would bring troop training exercises and heavy equipment into the species' habitat, and the development of a new State park and lodge on Magazine Mountain.

The 1989 final listing rule cited the species' restricted range as its greatest vulnerability to land use change or activity that would modify the talus slopes inhabited by the species. A request from the ADPT for a special use permit from the USFS to develop a State park and the associated construction of buildings, roads, trails, pipelines, and recreational activities had the potential to adversely affect Magazine Mountain shagreen and its habitat if talus slopes were disturbed. In 1993, several agencies, including the Service, contributed to an environmental impact statement (EIS) for the development and construction of a State park on the summit of Magazine Mountain (Service 1994, p. 5). Of the five assessed alternatives, the selected alternative included construction of facilities on the south slopes, improvement of existing camping and picnic facilities on the north slopes, additional hiking trails, and a reconstructed homestead. However, it was determined that, with appropriate management, the selected alternative would not adversely affect Magazine Mountain shagreen. Furthermore, mitigation measures completed as part of the park development and maintenance that helped minimize potential adverse effects to Magazine Mountain shagreen and its habitat included development of a revegetation/erosion/sediment control plan, monitoring of sensitive species habitats, and reduction of foot traffic along bluff lines and rock outcrops.

Therefore, development of the State park and its associated recreational and maintenance activities no longer poses a threat to the survival of Magazine Mountain shagreen.

Since the final listing rule was published, the USFS Ozark-St. Francis National Forests designated areas downslope (at lower elevations) of Magazine Mountain shagreen habitat as part of the Mount Magazine Special Interest Area. This designation still encompasses all of the known range of Magazine Mountain shagreen plus a 600-ft (182.9-m) contour interval buffer. The Special Interest Area designation and its associated management plan, revised in 2007, also protects the area from land management practices that might be detrimental to Magazine Mountain shagreen and its habitat (USFS 2007). In 2005, the Service, USFS Ozark-St. Francis National Forests, and ADPT entered into a MOU that provides for long-term cooperation in the management and protection of Magazine Mountain shagreen and its habitat on Magazine Mountain. The MOU is a continuing agreement without a designated termination date. Therefore, USFS land use activities no longer pose a threat to the survival of Magazine Mountain shagreen.

Wildfires have been cited as the single greatest threat to Magazine Mountain shagreen (Caldwell *et al.* 2009, p. 18). The USFS's prescribed fire program and its associated timing and frequency will reduce the likelihood of catastrophic wildfires. The prescribed fire program also provides a buffer around Magazine Mountain shagreen habitat. The ADPT restricts campfires and open flame cooking to designated areas to minimize the potential for wildfires that may potentially threaten Magazine Mountain shagreen and its habitat, as well as State park buildings and structures.

The U.S. Army is no longer considering the use of Magazine Mountain for military training exercises, an activity that was considered an imminent threat to Magazine Mountain shagreen when it was listed. The U.S. Army has no plans to conduct military training exercises on Magazine Mountain in the foreseeable future and withdrew its previous consideration after Magazine Mountain shagreen was listed as threatened in 1989 (Service 1994, p. 5). Therefore, potential U.S. Army military training operations no longer pose a threat to the survival of Magazine Mountain shagreen.

Summary of Factor A: Through management agreements and special designations, habitat supporting Magazine Mountain shagreen on Magazine Mountain is secure, and will remain permanently protected and managed for talus habitat. Therefore, we find that the present or threatened destruction, modification, or curtailment of its habitat or range is no longer a threat to Magazine Mountain shagreen.

Factor B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The final rule to list Magazine Mountain shagreen identified overutilization as a potential threat. A knowledgeable collector could adversely affect the population by removing large numbers of individuals. However, to the Service's knowledge, no Magazine Mountain shagreen individuals have been removed from the population for commercial, recreational, scientific, or educational purposes since the species was listed in 1989, except by Caldwell *et al.* (2009), who were permitted through a section 10(a)(1)(A) research permit to remove an egg mass from the wild to learn more about the life history of Magazine Mountain shagreen. The Arkansas Game and Fish Commission (AGFC) requires a permit for collection of individuals for scientific and educational purposes. Recreational collection is not permitted. Likewise, ADPT requires a permit for collection of plants and animals within State park boundaries. The State Park falls within the area designated as a Special Interest Area, and collection and removal of plants and non-game animals is by USFS permit only in the Special Interest Area. There is no commercial market for Magazine Mountain shagreen, nor is there likely to be a commercial market in the foreseeable future. Moreover, all habitat for this species is protected by one or more management agencies which require permits for collection.

It is the Service's opinion that, due to the species' restricted range, the AGFC's and ADPT's permitting requirements and restrictions will provide sufficient protection to Magazine Mountain shagreen following delisting.

Summary of Factor B: Magazine Mountain shagreen is not sought after for commercial purposes, and recreational collection of animals and plants within Magazine Mountain State Park is prohibited. The AGFC requires a scientific collection permit for scientific, recreational, and educational purposes, and it is the Service's opinion that it is very unlikely that AGFC would permit any activity that would result in overutilization of Magazine Mountain shagreen. Therefore, we find that overutilization for commercial, recreational, scientific, or educational purposes is no longer a threat to Magazine Mountain shagreen and will not become a threat in the foreseeable future.

Factor C. Disease or Predation

The 1989 listing rule for Magazine Mountain shagreen (54 FR 15206) did not list any threats to the species from disease or predation. The best available science does not provide any evidence that either of these factors has become a threat to this species since it was listed in 1989, nor will either become a threat in the foreseeable future. Therefore, we find that disease and predation are not threats to Magazine Mountain shagreen.

Factor D. The Inadequacy of Existing Regulatory Mechanisms

The 1989 final rule to list Magazine Mountain shagreen (54 FR 15206) indicated that no protections other than the USFS Special Interest Area existed to protect Magazine Mountain shagreen and its habitat. The entire range of Magazine Mountain shagreen is on USFS property and the summit of Magazine Mountain is jointly managed by ADPT as a State Park. Collection of animals is prohibited in the State Park and Special Interest Area, and there is no indication that this prohibition is not effective in preventing collection of this species. Collection of plants and non-game animals is by USFS permit only in the Special Interest Area. In 2005, the Service, USFS Ozark-St. Francis National Forests, and ADPT entered into an MOU that provides for long-term cooperation in the management and protection of Magazine Mountain shagreen and its habitat on Magazine Mountain. The MOU is a continuing agreement without a designated termination date.

Summary of Factor D: We believe that the protected status of the lands where Magazine Mountain shagreen currently exists will continue to provide adequate regulatory protection for this species. Therefore, we find that inadequacy of existing regulatory mechanisms is no longer a threat to Magazine Mountain shagreen.

Factor E. Other Natural or Manmade Factors Affecting Its Continued Existence

The 1989 final listing rule for Magazine Mountain shagreen (54 FR 15206) identified the restricted range (Magazine Mountain), temperature, and moisture as potential stressors to Magazine Mountain shagreen. Magazine Mountain shagreen inhabits 27 talus habitats on the north and west slopes of Magazine Mountain, Logan County,

Arkansas. Populations occur in the vegetated and leaf litter covered portion of talus rock between 2,200 ft (670.6 m) and 2,600 ft (792.5 m). This species continues to occupy a restricted range, however, as a result of habitat protection provided by the USFS and ADPT (see analysis under Factors A and D above), the vulnerability associated with restricted range has been reduced.

The Intergovernmental Panel on Climate Change (IPCC) concluded that evidence of warming of the climate system is unequivocal (IPCC 2007a, p. 30). Numerous long-term climate changes have been observed, including changes in arctic temperatures and ice, widespread changes in precipitation amounts, ocean salinity, wind patterns and aspects of extreme weather including droughts, heavy precipitation, heat waves, and the intensity of tropical cyclones (IPCC 2007b, p. 7). While continued change is certain, the magnitude and rate of change is unknown in many cases. Species that are dependent on specialized habitat types, limited in distribution, or that have become restricted to the extreme periphery of their range will be most susceptible to the effects of climate change.

Estimates of the effects of climate change using available climate models lack the geographic precision needed to predict the magnitude of effects at a scale small enough to discretely apply to the range of Magazine Mountain shagreen. However, data on recent trends and predicted changes for the Southeast United States (Karl *et al.* 2009, pp. 111–116) provide some insight for evaluating the potential threat of climate change to Magazine Mountain shagreen. Since 1970, the average annual temperature of the region has increased by about 2 °F (1.1 °C), with the greatest increases occurring during winter months. The geographic extent of areas in the Southeast region affected by moderate to severe spring and summer drought has increased over the past three decades by 12 and 14 percent, respectively (Karl *et al.* 2009, p. 111). These trends are expected to increase.

Rates of warming are predicted to more than double in comparison to what the Southeast has experienced since 1975, with the greatest increases projected for summer months. Depending on the emissions scenario used for modeling change, average temperatures are expected to increase by 4.5 °F to 9 °F (2.5 °C to 5 °C) by the 2080s (Karl *et al.* 2009, pp. 111). While there is considerable variability in rainfall predictions throughout the region, increases in evaporation of moisture from soils and loss of water by plants in response to warmer temperatures are expected to contribute to the effect of these droughts (Karl *et al.* 2009, pp. 112).

Since Magazine Mountain shagreen prefers cool, moist microhabitats, prolonged drought and concomitant warming of temperatures could adversely affect the species. In particular, nesting sites and egg masses may be affected (Caldwell *et al.* 2009, p. 15). However, no data exist to establish that such effects are reasonably certain to occur. In addition, the species possesses biological traits that may provide resilience to this potential threat. For example, Magazine Mountain shagreen tends to retreat into the talus slopes during dry periods. Egg masses were discovered in 2007 in the leaf litter covering the talus (Caldwell *et al.* 2009, p. 15–16); this tendency for Magazine Mountain shagreen to lay eggs in the leaf litter likely helps protect egg masses from desiccation (drying out).

We are not aware of any climate change information specific to the habits or habitat (i.e., talus slopes) of the Magazine Mountain shagreen that would indicate what potential effects climate change and increasing temperatures may have on this species. Therefore, based on the best available information, we do not have any evidence to determine or conclude that climate change is a threat to Magazine Mountain shagreen now or within the foreseeable future.

Summary of Factor E: At this time, we do not have sufficient information to document that climate changes observed to date had or will have any adverse effect on Magazine Mountain shagreen or its habitat. Therefore, we find that the other natural or manmade factors considered here do not pose a threat to Magazine Mountain shagreen, nor are they likely to be threats in the foreseeable future. Post-delisting monitoring will also afford an opportunity to monitor the status of the species and the impacts of any natural events that may occur for 5 years.

Summary of Factors

The primary factors that threatened Magazine Mountain shagreen at the time of listing were: The present or threatened destruction, modification, or curtailment of its habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; the inadequacy of existing regulatory mechanisms; and other natural or humanmade factors affecting its continued existence. Based on the analysis above, these factors have been removed or ameliorated.

Determination

We have carefully assessed the best scientific and commercial information available regarding the threats faced by Magazine Mountain shagreen in developing this rule. Based on the five-factor analysis above, Magazine Mountain shagreen does not currently meet the Act's definition of endangered in that it is not in danger of extinction throughout all of its range, or the definition of threatened in that it is not likely to become endangered in the foreseeable future throughout all of its range.

Significant Portion of the Range Analysis

Having determined that Magazine Mountain shagreen does not meet the definition of endangered or threatened throughout its range, we must next consider whether there are any significant portions of its range that are in danger of extinction or likely to become endangered.

Applying the process described in the proposed rule (see 77 FR 36473–36475), we evaluated the range of Magazine Mountain shagreen to determine if any area could be considered a significant portion of its range. As discussed in the proposed rule, a portion of a species' range is significant if it is part of the current range of the species and is important to the conservation of the species because it contributes meaningfully to the representation, resiliency, or redundancy of the species. The contribution must be at a level such that its loss would result in a decrease in the ability to conserve the species. There is no significant variability in the habitats across the range occupied by Magazine Mountain shagreen, which encompasses approximately 8.75 ha (21.6 ac) at 27 talus habitats on Magazine Mountain's west and north slopes in Logan County, Arkansas. The basic ecological components required for the species to complete its life cycle are present throughout the habitats occupied by Magazine Mountain shagreen. No specific location within the current range of the species provides a unique or biologically significant function that is not found in other portions of the range. Furthermore, as discussed in the five-factor analysis above, all threats to this species have been eliminated throughout its range.

In conclusion, we have determined there are no existing or potential threats, either alone or in combination with others, that are likely to cause Magazine Mountain shagreen to become endangered or threatened now or within the foreseeable future throughout a

significant portion of its range. On the basis of this evaluation, Magazine Mountain shagreen no longer requires the protection of the Act, and we remove Magazine Mountain shagreen from the Federal List of Endangered and Threatened Wildlife (50 CFR 17.11(h)).

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, state, and private agencies, groups, and individuals. This rule removes these Federal conservation measures for Magazine Mountain shagreen.

Effects of This Rule

This final rule revises 50 CFR 17.11(h) to remove the Magazine Mountain shagreen from the Federal List of Endangered and Threatened Wildlife. The prohibitions and conservation measures provided by the Act, particularly through sections 7 and 9, no longer apply to this species. Federal agencies are no longer required to consult with the Service under section 7 of the Act in the event that activities they authorize, fund, or carry out may affect the Magazine Mountain shagreen. Because critical habitat was not designated for this species, this rule would not affect 50 CFR 17.95.

Post-Delisting Monitoring

Section 4(g)(1) of the Act requires us, in cooperation with the States, to monitor species that are delisted due to recovery for at least 5 years. The purpose of this requirement is to develop a program that detects the failure of any delisted species to sustain itself without the protective measures provided by the Act. If, at any time during the monitoring period, data indicate that protective status under the Act should be reinstated, we can initiate listing procedures, including, if appropriate, emergency listing.

A post-delisting monitoring plan has been developed for the Magazine Mountain shagreen, building upon and continuing the research that was conducted during the listing period. Peer review comments submitted in response to the draft post-delisting monitoring plan have been addressed within the body of the plan. The plan:

(1) Summarizes the species' status at the time of delisting;

(2) Defines thresholds or triggers for potential monitoring outcomes and conclusions;

(3) Lays out frequency and duration of monitoring;

(4) Articulates monitoring methods, including sampling considerations;

(5) Outlines data compilation and reporting procedures and responsibilities;

(6) Identifies localities selected for post-delisting monitoring; and

(7) Lays out an implementation schedule, including timing and responsible parties.

The final post-delisting monitoring identifies measurable response triggers (thresholds) for detecting and reacting to significant changes in Magazine Mountain shagreen distribution, persistence, and protected habitat. If declines are detected equal to or exceeding the thresholds described in the final post-delisting monitoring plan, the Service in combination with other post-delisting monitoring participants will investigate causes of these declines, including considerations of habitat changes, substantial human persecution, stochastic events, or any other significant evidence. The result of the investigation will be to determine if the Magazine Mountain shagreen warrants expanded monitoring, additional research, additional habitat protection, or resumption of Federal protection under the Act.

The final post-delisting monitoring plan is available at *http://www.regulations.gov* at Docket No. FWS–R4–ES–2012–0002, and any future revisions will be posted on our Endangered Species Program's national Web page (*http://www.fws.gov/endangered*) and on the Arkansas Ecological Field Services Office Web page (*http://www.fws.gov/arkansas-es/*).

Required Determinations

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by Office of Management and Budget (OMB) under the Paperwork Reduction Act. This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless if displays a currently valid OMB control number.

National Environmental Policy Act

We have determined that we do not need to prepare an environmental assessment or environmental impact statement, as defined in the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. We have determined that no Tribes or tribal lands will be affected by this rule.

References Cited

A complete list of all references cited in this final rule is available at *http://www.regulations.gov* at Docket No. [FWS–R4–ES–2012–0002], or upon request from the Arkansas Ecological Services Field Office (see **ADDRESSES**).

Author

The primary authors of this final rule are staff members of the Arkansas Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulation Promulgation

Accordingly, we hereby amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; 4201–4245; unless otherwise noted.

§ 17.11 [Amended]

■ 2. Amend § 17.11(h) by removing the entry for "Shagreen, Magazine Mountain" under "Snails" from the List of Endangered and Threatened Wildlife.

Dated: April 30, 2013.

Daniel M. Ashe,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2013–11541 Filed 5–14–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 680

[Docket No. 110207108–3430–02]

RIN 0648–BA82

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Crab Rationalization Program

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement Amendment 41 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (FMP). These regulations amend the Bering Sea/Aleutian Islands Crab Rationalization Program (CR Program) by establishing a process whereby holders of regionally designated individual fishing quota (IFQ) and individual processor quota (IPQ) in six CR Program fisheries may receive an exemption from regional delivery requirements in the North or South Regions. The six CR Program fisheries are Bristol Bay red king crab, Bering Sea snow crab, Saint Matthew Island blue king crab, Eastern Aleutian Islands golden king crab, Western Aleutian Islands red king crab, and Pribilof Islands red and blue king crab. This action is necessary to mitigate disruptions in a CR Program fishery that prevent participants from complying with regional delivery requirements. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable law.

DATES: Effective June 14, 2013.

ADDRESSES: Electronic copies of Amendment 41 to the FMP, the Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), and the Categorical Exclusion prepared for this action may be obtained from *http://www.regulations.gov* or from the Alaska Region Web site at *http://alaskafisheries.noaa.gov*. The Environmental Impact Statement, RIR, and Social Impact Assessment prepared for the CR Program are available from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov*.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule may be submitted to NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Ellen Sebastian, Records Officer; in person at NMFS Alaska Region, 709 West 9th Street, Room 420A, Juneau, AK; and by email to *OIRA_Submission@omb.eop.gov* or faxed to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Gretchen Harrington, 907–586–7228.

SUPPLEMENTARY INFORMATION: This final rule implements Amendment 41 to the FMP. NMFS published a notice of availability for Amendment 41 on December 13, 2012 (77 FR 74161). The comment period on Amendment 41 ended on February 11, 2013. NMFS published a proposed rule to implement Amendment 41 on January 30, 2013 (78 FR 6279). The comment period on the proposed rule ended on March 1, 2013. NMFS approved Amendment 41 on March 13, 2013. Additional detail on the effects of this action is provided in the notice of availability for Amendment 41 (December 13, 2012, 77 FR 74161) and the proposed rule (January 30, 2013, 78 FR 6279). NMFS received eight letters containing nine unique comments on Amendment 41 and the proposed rule.

Amendment 41 and this final rule apply to quota share (QS) and processor quota share (PQS) that have a regional designation for either the North Region or South Region. NMFS assigned a North Region designation or a South Region designation to the QS and PQS issued in six CR Program fisheries: Bristol Bay red king crab, Bering Sea snow crab, Eastern Aleutian Islands golden king crab, Western Aleutian Islands red king crab, Saint Matthew Island blue king crab, and Pribilof Islands red and blue king crab. The North Region is north of 56°20′N. latitude. The South Region is south of 56°20′N. latitude.

A QS holder's annual allocation, called IFQ, is expressed in pounds and is based on the amount of QS held in relation to the total QS pool for that fishery. NMFS issues IFQ in three classes: Class A IFQ, Class B IFQ, and Class C IFQ. Three percent of IFQ is issued as Class C IFQ for captains and crew. Of the remaining IFQ, 90 percent is issued as Class A IFQ and 10 percent is issued as Class B IFQ. For the CR fisheries subject to this rule, NMFS issues Class A IFQ with a North Region or South Region designation, and that Class A IFQ must be delivered within its designated geographic region. For PQS holders, NMFS issues an annual allocation of individual processing quota (IPQ) with a North Region or South Region designation. NMFS issues Class A IFQ and IPQ for each region at a one-to-one correlation for each of the six CR Program fisheries subject to this rule. Holders of Class A IFQ designated for a specific region must deliver to a processor holding a matching amount of IPQ for that region. Holders of regionally designated Class A IFQ and IPQ may not use that IFQ and IPQ outside of the designated region, except as provided for in this rule.

In recommending Amendment 41, the Council recognized that weather conditions or other natural or man-made circumstances can hinder harvesting activities and restrict access to processing facilities in the North or South Regions. Environmental or man-made conditions have created obstacles to regional deliveries in every year since implementation of the CR Program. Each year, icing conditions have been an obstacle to delivering crab harvested with North Region IFQ in the North Region. For an entire season, deliveries to a floating processor that served most of the North Region were prevented by a fire that disabled the processor.

Natural or man-made catastrophes could result in lost revenue to harvesters, processors, and communities. Safety risks increase when harvesters attempt to meet regional delivery requirements in inclement weather (e.g., icing conditions) and other potentially unsafe situations. Unforeseen delays in delivering crab could result in deadloss (crab that die before being processed). Harvesters may avoid or delay the harvest of regionally designated IFQ, thereby increasing the potential for unharvested crab or crab harvested later in the fishing season. Such changes in fishing behavior could result in unused IPQ, increased processing cost, loss of market share, and loss of revenue to remote communities dependent on revenues from crab deliveries and processing.

Amendment 41 and this final rule promote the safety of human life at sea and mitigate economic harm by allowing participants to receive an exemption from regional delivery requirements in situations where events prevent participants from delivering crab harvested with North Region IFQ in the North Region or South Region IFQ

in the South Region. This final rule implements an exemption process to allow fishery participants to respond to an emergency situation during the crab fishing year in accord with provisions that they established before the season. The preamble to the proposed rule (78 FR 6279, January 30, 2013) provides detailed information on the implementing regulations for Amendment 41.

In summary, this final rule establishes a process by which IFQ holders, IPQ holders, and affected communities could jointly apply for and receive an exemption from regional delivery requirements. This final rule implements a two-step process for an exemption from regional delivery requirements: A preseason application and an inseason notice of exemption. Both parts of the application are on one form: The Application for Exemption from CR Crab North or South Region Delivery Requirements. This application process allows the parties to apply for an exemption from the regional delivery requirements without extensive administrative review by NMFS.

Under this rule, both the preseason application and the inseason notice of exemption must be signed by one or more members of the following three groups: (1) Holders of Class A IFQ in a CR Program fishery subject to this rule; (2) holders of the IPQ in a CR Program fishery subject to this rule; and (3) a representative of each of the affected communities. Additional description of these groups is provided in the preamble to the proposed rule (78 FR 6279, January 30, 2013).

The preseason application process allows the affected parties to enter the crab fishing season knowing the steps that the parties would take to avoid an exemption, the circumstances that would trigger an exemption, the steps they would need to take to obtain an exemption, and any mutually-agreed upon compensatory actions that the parties would take as a result of exercising the exemption. The preseason application process itself has two parts: (1) The development of a framework agreement by the parties; and (2) the submission of a preseason application to NMFS. If the parties to a NMFS-approved preseason application conclude during the crab fishing year that circumstances have occurred that justify an inseason exemption under the framework agreement, those applicants must do two things to obtain an exemption. First, they must enter into an exemption contract with each other and, second, they must jointly submit an inseason notice of the exemption to NMFS.

Amendment 41 and this final rule do not prescribe specific conditions or terms of agreement for the framework agreement or exemption contract. However, the North Pacific Fishery Management Council's (Council's) Statement of Council Intent should guide the parties in establishing the required contracts. The preamble to the proposed rule contains the Statement of Council Intent and the range of private arrangements that the Council considered and that the parties could put in the framework agreement and the exemption contract (78 FR 6279, January 30, 2013).

This final rule also includes a reporting requirement for IFQ holders to provide NMFS and the Council with the means to assess the exemption in terms of the Council's Statement of Council Intent for Amendment 41. In a crab fishing year when an IFQ holder submits a preseason application for an exemption from the regional delivery requirements, the IFQ holder must also submit an annual Regional Delivery Exemption Report to NMFS.

Response to Comments

NMFS received eight letters of public comment during the public comment periods for Amendment 41 and the proposed rule. NMFS received letters from crab fishery participants and organizations, the City of Saint Paul, and a Community Development Quota (CDQ) entity. NMFS summarized these letters into nine separate comments, and responds to them below.

Comment 1: The proposed rule is consistent with Amendment 41 as adopted by the Council. We encourage NMFS to move forward expeditiously in implementation of the regulations so that they can be in effect for the 2013/2014 crab fishing year.

Response: NMFS acknowledges the comment.

Comment 2: In the preamble to the proposed rule, NMFS used incorrect coordinates to describe the line between the North Region and the South Region. The correct line is defined at § 680.40(b)(2)(i)(A).

Response: NMFS acknowledges that the coordinates in the preamble to the proposed rule were incorrect and includes the correct coordinates in this preamble to the final rule.

Comment 3: The Council intended that the regional delivery exemption apply to compensatory deliveries (e.g., allowing Class A IFQ and IPQ designated for one region to be used in another region to compensate for deliveries made earlier under an inseason notice of exemption). The proposed rule could be interpreted to render the parties ineligible to make compensatory deliveries in the crab fishing year following the year that they were stipulated in the exemption contract. Under the proposed rule, parties entitled to compensatory deliveries could potentially be denied the benefit of their bargain without their agreements and through no fault of their own. This result would be contrary to the fundamental premises of the contract-based approach to regional delivery exemptions adopted by the Council under Amendment 41.

Response: The Council intended that the regional delivery exemption apply to compensatory deliveries. Compensatory deliveries can occur in the crab fishing year that they were stipulated in the exemption contract or in the crab fishing year following the year that they were stipulated in the exemption contract. Under the proposed rule, compensatory deliveries would be possible. However, the proposed rule did not include any regulations specifically addressing the use of compensatory deliveries, either in the crab fishing year or in the following crab fishing year, and, as proposed, did not provide the most efficient process for exempting compensatory deliveries in the following crab fishing year from regional delivery requirements. To address this public comment, NMFS has modified the final rule to more clearly address compensatory deliveries and the process to be followed for exempting compensatory deliveries in the following crab fishing year.

The Council considered compensatory deliveries as one possible form of compensation that the parties could put in the framework agreement and the exemption contract, as discussed in Sections 2.4.2 and 2.4.3 of the RIR (see **ADDRESSES**). Compensatory deliveries could be used to address the loss of economic activity under the exemption and the loss of revenue to both IPQ holders and communities. Compensatory deliveries could be used to address both an IPQ holder's potential losses (if the exemption was used to send deliveries to a different processor) and a community's potential losses (for any deliveries to a different region under the exemption).

A compensatory delivery would occur when the parties to the framework agreement and the exemption contract agree that a certain amount of regionally-designated IFQ crab may be landed outside of the region on the condition that some amount of IFQ crab is later delivered to that region. For example, the parties could agree to a compensatory delivery of IFQ crab not subject to regional delivery

requirements (Class B or Class C IFQ) to the region that lost deliveries under the exemption. Alternatively, compensatory deliveries could come from a different CR fishery or from Class A IFQ designated for another region. The amount of a compensatory delivery would be negotiated and may differ from the amount redirected, particularly if made from a different fishery.

The RIR discusses how compensating the community for losses with a compensatory delivery of IFQ crab designated for another region may be a more agreeable resolution to all parties than a payment to the regional entity or its designee. The RIR specifies that, in the framework agreement, the parties would commit to subsequent compensatory delivery in a region. The RIR notes that compensating a community or region with deliveries of IFQ crab designated for another region would require that the IFQ and IPQ holders have agreements with the community representative for the IFQ and IPQ used for compensation. Because the Council clearly analyzed and considered compensatory deliveries (including compensatory deliveries that may occur in the year following the approval of an exemption) during the development of Amendment 41, and the public has requested additional specificity in the regulatory text concerning the use of and process for compensatory deliveries in the year following an exemption under the proposed rule, NMFS determined that modifications to the proposed rule text are needed to more closely align the final rule with Amendment 41 and clarify the exemption process.

NMFS has made three changes in the final rule to address and facilitate the use of compensatory deliveries in both the crab fishing year they were stipulated in the exemption contract and in the following crab fishing year. These changes do not require parties to the framework agreement to establish agreements for compensatory deliveries, but if the parties establish such agreements, the changes require that provisions for compensatory deliveries are clearly described in the framework agreement and exemption contract, and that the required forms are signed by all of the affected parties.

Administratively, compensatory deliveries among regions are subject to the same procedure established by this action to exempt deliveries from regional delivery requirements. Consequently, representatives from both regions must sign the framework agreement, exemption contract, and corresponding forms to allow for compensatory deliveries among regions. For example, if a Class A IFQ holder, IPQ holder, and the representative of the affected community in the North Region want to have a specific amount of South Region Class A IFQ delivered in the North Region as compensation for a delivery of North Region Class A IFQ in the South Region, then the Class A IFQ holder(s), IPQ holder(s), and representatives of affected communities from both the North and South Regions must sign the framework agreement, preseason application, exemption contract, and inseason notice of exemption.

NMFS would treat the compensatory delivery the same as an original exempted delivery in that it would be made using IFQ and IPQ that were exempt from the regional delivery requirement. Therefore, the IFQ holder(s), IPQ holder(s), and the community representative(s) for the IFQ and IPQ used to make the compensatory delivery in either that crab fishing year or in the following crab fishing year must sign the framework agreement, preseason application, notice of inseason exemption, and exemption contract. If any party to a framework agreement or exemption contract believes that any other party did not comply with their contractual obligation, that party could seek redress as a private civil matter.

First, NMFS changed the regulations for the preseason application at § 680.4(p)(4)(ii)(B) to add a new paragraph (*6*) that requires the framework agreement to specify any arrangements for compensatory deliveries in the crab fishing year or the following crab fishing year. This new provision ensures that the IFQ and IPQ that would be used to make the compensatory deliveries are subject to the framework agreement and are available for the exemption contract.

Second, NMFS changed the regulations for the inseason notice of exemption at § 680.4(p)(4)(iii)(B) to add a new paragraph (*5*) that requires the exemption contract to specify any arrangements for compensatory deliveries in that crab fishing year or the following crab fishing year. This new provision ensures that the compensatory deliveries are covered in the exemption contract.

Third, NMFS changed the regulations at § 680.4(p)(4)(iii)(F) to extend the effective period for the exemption to cover any specified compensatory deliveries in the following crab fishing year. Under the proposed rule, the exemption would have been effective for the remainder of the crab fishing year in which NMFS receives the notice of exemption. This change will clarify that, if the inseason notice of exemption specifies that compensatory deliveries will occur in the following crab fishing year, the exemption will remain in effect for the specified IFQ and IPQ in the following crab fishing year.

The final rule does not permit compensatory deliveries for more than one crab fishing year after the year that NMFS receives the notice of exemption because allowing compensatory deliveries to occur at some indeterminate time in the future would be administratively burdensome to track, was not specifically analyzed in the RIR prepared for this action, and public comments generally requested that compensatory deliveries be allowed in the crab fishing year following the notice of exemption.

Comment 4: There is no logical basis for requiring that parties enter into a framework agreement for a subsequent year as a condition of being eligible to make compensatory deliveries required under a framework agreement and exemption contract from a prior year. We respectfully suggest two changes to address this issue.

First, revise § 680.4(p)(4)(ii)(E) to provide that applicants who do not submit a timely preseason application will not be eligible to receive an exemption for the relevant crab fishing year, other than an exemption to make compensatory landings in fulfillment of their obligations under an existing exemption contract.

Second, add language to § 680.4(p)(4)(ii)(F) so that it would read as follows: "If a preseason application is timely and complete, NMFS will approve the application. If NMFS approves a preseason application for an exemption, the applicants will be able to receive an exemption during the crab fishing year in which the preseason application was filed if the applicants comply with the requirements for a preseason application specified below at (p)(4)(iii). In addition, if NMFS approves a preseason application for an exemption and receives a related complete notice of exemption that is based on an exemption contract that includes an agreement for compensatory deliveries, the exemption necessary to make such compensatory deliveries will be effective the day after it is filed with NMFS in accordance with Section 680.4(p)(4)(iii), below, by the party authorized to file it under the terms of the related inseason exemption contract."

Response: NMFS agrees that it is not necessary for the parties to enter into a new framework agreement in order to make compensatory deliveries specified in an exemption contract in the

following crab fishing year. As explained in the response to Comment 3, NMFS has modified the proposed regulatory text in this final rule to address and facilitate compensatory deliveries in the crab fishing year following the inseason notice of exemption. Compensatory deliveries in the following crab fishing year would be made under the framework agreement and preseason application (and exemption contract and notice of exemption) submitted in the crab fishing year in which the emergency occurred. When applicants receive an exemption, the exemption would cover the compensatory deliveries in the following crab fishing year that are specified in the exemption contract. NMFS determined that the modifications described in the response to Comment 3 and contained in this final rule are the most efficient and effective way to implement the changes recommended by public comment. Therefore, the specific regulatory changes suggested by the comment are not necessary.

In response to the first suggested change, § 680.4(p)(4)(ii)(E) does not require a new preseason application to fulfill compensatory deliveries that are specified in an existing exemption contract. This regulation states that, if NMFS does not receive a timely and complete preseason application on or before October 15 of a crab fishing year, NMFS will deny the preseason application; those applicants will not be able to receive an exemption for that crab fishing year. This remains true; NMFS will not grant an exemption without a timely and complete preseason application. However, with the changes to the regulations described in the response to Comment 3, once applicants receive an exemption, the exemption would cover the compensatory deliveries in the following crab fishing year that are specified in the exemption contract.

The second suggested change to § 680.4(p)(4)(ii)(F) is also not necessary to allow compensatory deliveries in the following crab fishing year. This paragraph explains that NMFS will approve a timely and complete preseason application. If NMFS approves a preseason application for an exemption, the applicants will be able to receive an exemption during the crab fishing year if the applicants comply with the requirements for an inseason notice of exemption. With the changes to the regulations described in the response to Comment 3, once applicants receive an exemption, the exemption would cover the compensatory deliveries in the following crab fishing year that are specified in the exemption contract.

Comment 5: We respectfully suggest that § 680.4(p)(4)(iii)(A)(*3*) be revised to read as follows: "Be signed by the required applicants specified in paragraph (p)(3) that also signed the preseason application, or, if filed to make compensatory landings, be signed by the party authorized to submit the notice of exemption under the terms of the related inseason exemption contract."

Response: NMFS determined that this suggested regulatory change is not necessary to allow compensatory deliveries in the following crab fishing year. With the regulation changes explained in response to Comment 3, when applicants receive an exemption, the exemption would cover any compensatory deliveries in the following crab fishing year that are specified in the exemption contract. Parties would not need to submit a new inseason notice of exemption to make compensatory deliveries in the following crab fishing year.

However, it is important to note that the framework agreement, the preseason application, the exemption contact, and the inseason notice of exemption all must be signed by the holders of the IFQ and IPQ that are subject to the exemption, including the compensatory deliveries, and by the community representative for the community or communities where the specified IFQ, including compensatory deliveries, would have been landed. For compensatory deliveries, this means that the community representative that would have received the delivery used to compensate an exempted delivery must sign the required documents.

As explained in the RIR, a compensatory delivery of Class A IFQ designated for another region could only occur with the consent of the Class A IFQ holder, IPQ holder, and the representative of the affected community in the region from which the compensatory delivery originates. The RIR notes that to compensate a community or region with deliveries of IFQ crab designated for another region would require that the IFQ and IPQ holders have agreements with the regional representative for the IFQ and IPQ used for compensation. Administratively, these compensatory deliveries are part of the same procedure as the original exempt delivery. Consequently, representatives from both regions in a fishery would need to sign the framework agreement, exemption contract, and corresponding forms to allow for compensatory deliveries.

Comment 6: We respectfully request that § 680.4(p)(5) be revised to require that each Regional Delivery Exemption Report identify all compensatory deliveries made during the crab fishing year that is the subject of the Report, all outstanding compensatory delivery obligations to be fulfilled in a future crab fishing year or years, and the party or parties who are authorized to file the related compensatory delivery exemption request(s) under the terms of the related exemption contract(s). We believe this information would assist NMFS with identifying compensatory landings as a subcomponent of regional landing relief, and in determining who has the authority to file compensatory landing exemption requests.

Response: NMFS agrees that the Regional Delivery Exemption Report should include information on compensatory deliveries and has added a requirement to the Regional Delivery Exemption Report at § 680.4(p)(5)(i)(D). This final rule requires that the report include an explanation of the arrangements for any compensatory deliveries, including all compensatory deliveries made during the crab fishing year and any outstanding compensatory delivery obligations for the following crab fishing year. Note that NMFS is not requiring any of the parties to file compensatory delivery exemption requests as suggested by the comment. Compensatory deliveries would be made under the inseason notice of exemption in which the compensatory deliveries were specified, regardless of whether they occur in the same crab fishing year or the following crab fishing year. Also, as explained in the response to Comment 3, the final rule does not permit compensatory deliveries for more than one crab fishing year after the year that NMFS receives the notice of exemption.

Comment 7: The proposed rule, at § 680.4(p)(5)(ii), requires IFQ holders to submit a Regional Delivery Exemption Report to IPQ holders and community representatives on or before June 15, and to submit the Regional Delivery Exemption Report to NMFS on or before June 30. We note that the crab fishing year currently extends through June 30, and it is conceivable that IFQ crab delivered under an exemption may not be landed until then. Therefore, we respectfully request that the deadlines for submitting a Regional Exemption Delivery Report to IPQ holders and community representatives be extended to July 15, and the deadline for submitting the Report to NMFS be extended to July 30. These extensions should provide IFQ holders with adequate time after the crab fishing year

ends to prepare and submit the required Regional Delivery Exemption Reports.

Response: NMFS agrees and has changed the deadline at § 680.4(p)(5)(ii) to July 15 and the deadline at § 680.4(p)(5)(iii) to July 30.

Comment 8: One comment expressed a general concern with Federal fisheries management.

Response: NMFS acknowledges that comment but determined that it does not relate to the scope of this action.

Comment 9: One comment generally supported the Crab Rationalization Program.

Response: NMFS acknowledges the comment.

Summary of the Changes from Proposed to Final Rule

NMFS made changes from the proposed to final rule in response to public comments. NMFS made four changes to allow for compensatory deliveries in the following crab fishing year that are discussed in the responses to Comments 3 and 6.

- NMFS changed the proposed regulations for the preseason application at § 680.4(p)(4)(ii)(B) to add a new paragraph (*6*) that requires the framework agreement to specify any arrangements for compensatory deliveries in the crab fishing year or the following crab fishing year.
- NMFS changed the proposed regulations for the inseason notice of exemption at § 680.4(p)(4)(iii)(B) to add a new paragraph (*5*) that requires the exemption contract to specify any arrangements for compensatory deliveries in the crab fishing year or the following crab fishing year.
- NMFS changed the proposed regulations at § 680.4(p)(4)(iii)(F) to extend the effective period for the exemption to cover any specified compensatory deliveries in the following crab fishing year.
- NMFS changed the proposed regulations for the Regional Delivery Exemption Report at § 680.4(p)(5)(i) to add a new paragraph (D) that requires the Regional Delivery Exemption Report to include an explanation of the arrangements for any compensatory deliveries, including all compensatory deliveries made during the crab fishing year and any outstanding compensatory delivery obligations for the following crab fishing year.

Additionally, NMFS changed the deadline at § 680.4(p)(5)(ii) to July 15 and the deadline at § 680.4(p)(5)(iii) to July 30, as discussed in Comment 7.

OMB Revisions to Paperwork Reduction Act References in 15 CFR 902.1(b)

Section 3507(c)(B)(i) of the PRA requires that agencies inventory and display a current control number assigned by the Director, OMB, for each agency information collection. Section 902.1(b) identifies the location of NOAA regulations for which OMB approval numbers have been issued. Because this final rule revises and adds data elements within a collection-of information for recordkeeping and reporting requirements, 15 CFR 902.1(b) is revised to reference correctly the sections resulting from this final rule.

Classification

Pursuant to sections 304(b) and 305(d) of the Magnuson-Stevens Act, the Administrator, Alaska Region, NMFS, has determined that Amendment 41 and this final rule are necessary for the conservation and management of the BSAI crab fisheries and that they are consistent with the FMP, other provisions of the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable law.

This final rule has been determined to be not significant for the purposes of Executive Order 12866.

Final Regulatory Flexibility Analysis (FRFA)

This final regulatory flexibility analysis (FRFA) incorporates the Initial Regulatory Flexibility Analysis (IRFA), a summary of the significant issues raised by the public comments in response to the IRFA, NMFS' responses to those comments, and a summary of the analyses completed to support the action.

NMFS published a proposed rule to implement Amendment 41 on January 30, 2013 (78 FR 6279). An IRFA was prepared and summarized in the "Classification" section of the preamble to the proposed rule. The description of this action, its purpose, and its legal basis are described in the preamble to the proposed rule and are not repeated here.

NMFS received eight letters of public comment containing nine unique comments on Amendment 41 and the proposed rule. None of these comments addressed the IRFA or the economic impacts of the rule generally.

Number and Description of Small Entities Regulated by the Action

This action creates a process whereby IFQ holders and IPQ holders who enter an agreement with a community representative may apply for and receive an exemption from regional delivery requirements. Estimates of the number of small entities holding IFQ are based on estimates of gross revenues. During the 2009–2010 fishing season, nine entities held IFQ subject to regional delivery requirements; three of these IFQ holders were small entities. In that same season, 14 of the 22 entities that held IPQ subject to regional delivery requirements were small entities. Six small community entities, including two CDQ entities, are directly regulated by this action.

Description of Significant Alternatives to the Final Action That Minimize Adverse Impacts on Small Entities

A FRFA must describe the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency, which affect the impact on small entities, was rejected. "Significant alternatives" are those that achieve the stated objectives for the action, consistent with prevailing law, with potentially lesser adverse economic impacts on small entities, as a whole.

No significant alternatives were developed for this action. The Council considered two alternatives; status quo and the proposed action. The status quo is no exemption from the regional delivery requirements. The proposed action is an exemption from the regional delivery requirements. For the proposed action alternative, the Council considered a number of options to improve the functioning of the exemption and minimize adverse impacts on small entities. The Council also considered and eliminated from further considerations several alternatives that the Council determined would have limited the effectiveness of the exemption in achieving its intended purpose.

The analysis shows that this action minimizes the economic impacts of status quo on small entities by allowing participants to receive an exemption from regional delivery requirements in situations where events prevent participants from delivering crab harvested with North Region IFQ in the North Region or South Region IFQ in the South Region. Overall, this exemption process allows participants to receive an exemption from regional delivery requirements in situations where events prevent participants from delivering crab harvested with North

Region IFQ in the North Region or South Region IFQ in the South Region.

The Council considered a number of options to improve the functioning of the exemption and minimize adverse impacts on small entities. The Council considered options that would allow communities benefiting from a ROFR to select a regional representative to act on their behalf rather than the ECC entity. The Council did not choose that option because of the potential difficulties that communities could encounter in selecting the regional representative and because of the additional administrative costs and burdens associated with this option. In addition to providing an expedited administrative process, the approach selected by the Council maintains the original intent of CR Program community protection measures in that it preserves community interests by providing not only a regional linkage for certain PQS, but also a close linkage between certain PQS and the community of origin for that PQS.

The Council also considered and eliminated from further consideration several alternatives during the development of Amendment 41. These alternatives are described in detail in Section 2.2.1 of the analysis for this action (see **ADDRESSES**). Generally, the Council perceived these alternatives as limiting the effectiveness of the exemption in achieving its intended purpose.

The Council considered and rejected alternatives in which NMFS would fully administer regional exemptions by determining whether specific conditions existed to qualify for an exemption from the regional delivery requirement. The Council did not advance these alternatives because the Council viewed them as overly expensive to administer and likely to prevent the exemption process from fulfilling its purpose as described in the Council's purpose and need statement for this action. The Council and NMFS recognized that the necessary fact finding to make such a determination (e.g., that a specific amount of ice was prohibiting harvesting or delivery of crab in a specific location) would not only delay decision making, but could also be costly. Verification of conditions could be difficult or impracticable due to the remoteness of the location and poor quality of data available.

A factual finding would require NMFS to not only complete an assessment of the event that arguably prevents a delivery, but also of the potential availability of other processing facilities in the region to overcome the barrier to the delivery. These findings would require factual assessments of circumstances in remote areas. Such findings typically require time, which may jeopardize safety in emergencies, and information, which may not be available to NMFS. In addition, the need for administrative review of these findings could result in additional delays. Consequently, the Council elected to pursue alternatives that would not rely on agency administrative discretion. Instead, the affected parties would define the terms under which they would apply for and receive an exemption. This approach also allows the parties flexibility to develop mitigation and compensation requirements that would, in turn, minimize the need for the exemption and, if an exemption is necessary, ensure that the parties potentially harmed by the exemption receive reasonable compensation.

The Council also considered an alternative that would have defined specific exemption criteria in regulation; however, the Council eliminated this alternative because NMFS and the Council recognized that this approach might be overly restrictive and could not be adapted as circumstances might require. The Council also elected not to recommend an alternative that specifically defined compensation because the Council deemed this alternative too prescriptive to effectively balance the competing interests of parties, which are likely to change with the circumstances surrounding the granting of an exemption. Similarly, the Council chose not to advance alternatives that would redesignate IFQ and IPQ to compensate for landings redirected under the exemption because they would be administratively complex given the inability to rollover IFQ from one year to the next.

Duplicate, Overlapping, or Conflicting Federal Rules

No duplication, overlap, or conflict between this action and existing Federal rules has been identified.

Recordkeeping and Reporting Requirements

The reporting, recordkeeping, and other compliance requirements will be increased if parties enter into the agreements and contracts required as part of a completed Application for Exemption from CR Crab North or South Region Delivery Requirements. This action adds recordkeeping and reporting requirements necessary to implement Amendment 41, namely submission, prior to the start of the fishing season, of an application and affidavit affirming that IFQ holders, IPQ holders, and community representatives have entered into a framework agreement. A second notice and affidavit affirming that those parties have entered into an exemption contract is required if the parties subject to the framework agreement wish to seek an exemption during the fishing season.

Participation in an Application for Exemption from CR Crab North or South Region Delivery Requirements is voluntary, but necessary to deliver crab outside of a designated region when circumstances necessitate an exemption from the regional delivery requirements.

The professional skills necessary to comply with reporting and recordkeeping requirements for small entities impacted by this rule include the ability to read, write, and understand English; the ability to use a personal computer and the Internet; and the authority to take actions on behalf of the designated signatory. Each of the small entities must be capable of complying with the requirements of this rule. Each small entity should have financial resources to obtain additional legal or technical expertise that they might require to advise them concerning the framework agreement or the exemption contract.

IFQ holders that sign a preseason application must also prepare and submit an annual Regional Delivery Exemption Report to NMFS by July 30. By July 15, IFQ holders must submit a copy of the Regional Delivery Exemption Report to IPQ holders and community representatives that also signed the preseason application. In response to the Regional Delivery Exemption Report, community representatives may voluntarily submit a Community Impact Report and IPQ holders may voluntarily submit an IPQ Holder Report.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, NMFS has posted a small entity compliance guide on the NMFS Alaska Region Web site (*http://www.alaskafisheries.noaa.gov/sustainablefisheries/crab/rat/*

progfaq.htm. Contact NMFS to request a hard copy of the guide (see **ADDRESSES**).

Collection-of-Information Requirements

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA), which have been approved by the Office of Management and Budget (OMB) under OMB Control No. 0648–0514.

Public reporting burden per response is estimated to average 20 hours for the Application for Exemption from CR Crab North or South Region Delivery Requirements; 5 hours for CDQ Notification of Representative; 20 hours to prepare the Regional Delivery Exemption Report; and 2 hours to complete the Community Impact Report or IPQ Holder Report.

Public reporting burden includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding these burden estimates, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by email to *OIRA_Submission@omb.eop.gov*, or fax to (202) 395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 680

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: May 8, 2013.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 15 CFR part 902 and 50 CFR part 680 as follows:

Title 15—Commerce and Foreign Trade

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

■ 1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

■ 2. In § 902.1, in the table in paragraph (b), under the entry "50 CFR":

■ a. Remove entries for "680.4(a), (b)(2), and (c) through (m)"; "680.4(b)(1)"; and 680.4(b)(3) and (n)"; and "680.5(e) and (f)";

■ b. Add entries in alphanumeric order for "680.4(a) through (p)"; "680.5(f)"; and "680.42(a) and (b)."

The additions read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR Part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
* * * * *	
50 CFR	
* * * * *	
680.4(a) through (p)	–0514
* * * * *	
680.5(f)	–570
* * * * *	
680.42(a) and (b)	–0514
* * * * *	

Title 50—Wildlife and Fisheries

PART 680—SHELLFISH FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 3. The authority citation for 50 CFR part 680 continues to read as follows:

Authority: 16 U.S.C. 1862; Pub. L. 109–241; Pub. L. 109–479.

■ 4. In § 680.4, add paragraph (p) to read as follows:

§ 680.4 Permits.

* * * * *

(p) *Exemption from regional delivery requirements for the Bristol Bay red king crab, Bering Sea snow crab, St. Matthew blue king crab, Eastern Aleutian Islands golden king crab, Western Aleutian Islands red king crab, and Pribilof red king and blue king crab fisheries*—(1) *Apply for an Exemption.* Eligible applicants may submit an application to exempt North Region IFQ and IPQ or South Region IFQ and IPQ from the prohibitions at §§ 680.7(a)(2) and (a)(4).

(2) *Identification of eligible applicants.* Eligible applicants are:

(i) *IFQ holders.* Any person holding regionally designated IFQ for Bristol Bay red king crab, Bering Sea snow crab, St. Matthew blue king crab, Eastern Aleutian Islands golden king crab, Western Aleutian Islands red king crab, or Pribilof red king and blue king crab, or their authorized representative.

(ii) *IPQ holders.* Any person holding regionally designated IPQ for Bristol Bay red king crab, Bering Sea snow crab, St. Matthew blue king crab, Eastern Aleutian Islands golden king crab, Western Aleutian Islands red king crab, or Pribilof red king and blue king crab, or their authorized representative.

(iii) *Community representatives.* (A) For communities that hold or formerly held the ROFR pursuant to § 679.41(l), the community representative that signs the preseason application, the framework agreement, the inseason notice, and the exemption contract is the ECC entity, as defined at § 680.2.

(B) For North Region St. Matthew blue king crab PQS and North Region Bering Sea snow crab PQS that was issued without a ROFR, the community representative that signs the preseason application, the framework agreement, the inseason notice, and the exemption contract for Saint Paul and Saint George shall be either:

(*1*) Both Aleutian Pribilof Islands Community Development Association (APICDA) and the Central Bering Sea Fishermen's Association (CBSFA), or

(*2*) the community representative that APICDA and CBSFA designate in writing to NMFS by December 9, 2013.

(*i*) Either APICDA or CBSFA may revoke the designated community representative by providing written notice to the other entity and to NMFS.

(*ii*) If either APICDA or CBSFA revokes its designation of a community representative after October 15 of a crab fishing year, the revocation will not affect the validity of any action taken by the designated community representative pursuant to paragraph (p) for that crab fishing year, including signing the preseason application, the framework agreement, the inseason notice, and the exemption contract.

(3) *Required Applicants.* Multiple parties may apply for an exemption; however, a complete preseason application and a complete inseason notice must be submitted by a minimum of one Class A IFQ holder, one IPQ holder, and one community representative.

(4) *Application for an Exemption from the CR Program Regional Delivery Requirements*—(i) *Application Form.* The application form consists of two parts: a preseason application for exemption and an inseason notice of exemption. The application form is available on the NMFS Alaska Region Web site (*http://alaskafisheries.noaa.gov*) or from NMFS at the address below. NMFS must receive both parts of the application form by one of the following methods:

(A) Mail: NMFS Regional Administrator, c/o Restricted Access Management Program, P.O. Box 21668, Juneau, AK 99802–1668; or

(B) Fax: 907–586–7354; or

(C) Hand delivery or carrier: NMFS, Room 713, 709 West 9th Street, Juneau, AK 99801.

(ii) *Part I: Preseason Application.* (A) A complete preseason application must be signed by the required applicants specified in paragraph (p)(3), contain the information specified on the form, have all applicable fields accurately completed, and have all required documentation attached.

(B) Each applicant must certify, through an affidavit, that the applicant has entered into a framework agreement that—

(*1*) Specifies the CR crab fisheries that are the subject of the framework agreement;

(*2*) Specifies the actions that the parties will take to reduce the need for, and amount of, an exemption;

(*3*) Specifies the circumstances that could be an obstacle to delivery or processing under which the parties would execute an exemption contract and receive an exemption;

(*4*) Specifies the actions that the parties would take to mitigate the effects of an exemption;

(*5*) Specifies the compensation, if any, that any party would provide to any other party;

(*6*) Specifies any arrangements for compensatory deliveries in that crab fishing year or the following crab fishing year and;

(*7*) Is signed by the holders of the IFQ and IPQ that are the subject of the framework agreement and by the community representative that is authorized to sign the framework agreement.

(C) Each applicant must sign and date the affidavit and affirm that, under penalty of perjury, the information and the claims provided on the application are true, correct, and complete.

(D) NMFS must receive the preseason application on or before October 15 of the crab fishing year for which the applicants are applying for an exemption.

(*1*) If a preseason application is submitted by mail, the date of receipt of the preseason application by NMFS will be the postmark date of the application;

(*2*) If an applicant disputes whether NMFS received a preseason application on or before October 15, the applicant must provide written documentation that was contemporaneous with NMFS' receipt of the application demonstrating that NMFS received the application by October 15.

(E) If NMFS does not receive a timely and complete preseason application on or before October 15 of a crab fishing year, NMFS will deny the preseason application; those applicants will not be able to receive an exemption for that crab fishing year.

(F) If a preseason application is timely and complete, NMFS will approve the application. If NMFS approves a preseason application for an exemption, the applicants will be able to receive an exemption during the crab fishing year if the applicants comply with the requirements for an inseason notice of exemption specified below at paragraph (p)(4)(iii).

(G) If NMFS denies a preseason application for any reason, the applicants may appeal the denial pursuant to 50 CFR 679.43.

(H) NMFS will notify all of the applicants whether NMFS has approved or denied the preseason application.

(iii) *Part II: Inseason Notice of Exemption.* (A) A complete inseason notice must:

(*1*) Identify the IFQ amount and IPQ amount, by CR crab fishery, subject to the exemption;

(*2*) Contain the information specified on the form, have all applicable fields accurately completed, and have all required documentation attached; and

(*3*) Be signed by the required applicants specified in paragraph (p)(3) of this section that also signed the preseason application.

(B) Each applicant must certify, through an affidavit, that the applicants have entered into an exemption contract that—

(*1*) Identifies the IFQ amount and IPQ amount, by CR crab fishery, that is subject to the exemption contract;

(*2*) Describes the circumstances under which the exemption is being exercised;

(*3*) Specifies the action that the parties must take to mitigate the effects of the exemption;

(*4*) Specifies the compensation, if any, that any party must make to any other party;

(*5*) Specifies any arrangements for compensatory deliveries in that crab fishing year or the following crab fishing year; and

(*6*) Is signed by the holders of the IFQ and IPQ that are the subject of the exemption contract and by the community representative that is authorized to sign the exemption contract.

(C) Each applicant must sign and date the affidavit and affirm that, under penalty of perjury, the information and the claims provided on the notice are true, correct, and complete.

(D) NMFS must receive the inseason notice at least one day prior to the day on which the applicants want the exemption to take effect. If an inseason notice is submitted by mail, the date that NMFS receives the inseason notice is not the postmark date of the notice.

(E) The effective date of the exemption is the day after NMFS receives a complete inseason notice. Any delivery of North Region IFQ or South Region IFQ outside the designated region prior to the effective date of the exemption is prohibited under § 680.7(a)(2) and (4). Any processing of North Region IPQ or South Region IPQ outside the designated region prior to the effective date of the exemption is prohibited under § 680.7(a)(2) and (4).

(F) An exemption is effective for the remainder of the crab fishing year, unless the inseason notice of exemption specifies that compensatory deliveries will occur in the following crab fishing year and then the exemption will remain in effect for the IFQ and IPQ specified for compensatory delivery in the following crab fishing year.

(5) *Regional Delivery Exemption Report.* (i) Each IFQ holder that signs a preseason application, described in paragraph (p)(4)(ii) of this section, must submit a Regional Delivery Exemption Report to NMFS that includes an explanation of—

(A) The amount of IFQ, if any, set aside to reduce the need for, and the amount of, an exemption;

(B) The mitigation measures employed before submitting an inseason notice;

(C) The number of times an exemption was requested and used;

(D) The arrangements for any compensatory deliveries, including all compensatory deliveries made during the crab fishing year and any outstanding compensatory delivery obligations for the following crab fishing year;

(E) Whether the exemption was necessary; and

(F) Any impacts resulting from the exemption on the fishery participants

and communities that signed the preseason application.

(ii) On or before July 15, IFQ holders must submit a copy of the Regional Delivery Exemption Report to the IPQ holders and community representatives that also signed the preseason application.

(iii) On or before July 30, IFQ holders must submit the Regional Delivery Exemption Report to NMFS at the address in paragraph (p)(4)(i) of this section.

(6) *Public Notice of the Exemption.* NMFS will post the effective date of an exemption and the Regional Delivery Exemption Reports on the NMFS Alaska Region Web site (*http://alaskafisheries.noaa.gov*).

■ 5. In § 680.7, revise paragraphs (a)(2), (a)(4), (a)(7), (a)(8), and (a)(9) to read as follows:

§ 680.7 Prohibitions.

* * * * *

(a) * * *

(2) Receive CR crab harvested under an IFQ permit in any region other than the region for which the IFQ permit is designated, unless:

(i) Western Aleutian Islands golden king crab are received following the effective date of a NMFS-approved exemption pursuant to § 680.4(o), or

(ii) The IFQ permit and IFQ amount are subject to an exemption pursuant to § 680.4(p).

* * * * *

(4) Use IPQ in any region other than the region for which the IPQ permit is designated, unless:

(i) Western Aleutian Islands golden king crab IPQ is used following the effective date of a NMFS-approved exemption pursuant to § 680.4(o), or

(ii) The IPQ permit and IPQ amount are subject to an exemption pursuant to § 680.4(p).

* * * * *

(7) For an IPQ holder to use more IPQ than the maximum amount of IPQ that may be held by that person. Use of IPQ includes all IPQ held by that person, and all IPQ crab that are received by any RCR at any shoreside crab processor or stationary floating crab processor in which that IPQ holder has a 10 percent or greater direct or indirect ownership interest, unless that IPQ crab meets the requirements in § 680.42(b)(7) or § 680.42(b)(8).

(8) For a shoreside crab processor or stationary floating crab processor, that does not have at least one owner with a 10 percent or greater direct or indirect ownership interest who also holds IPQ in that crab QS fishery, to receive in excess of 30 percent of the IPQ issued for that crab fishery, unless that IPQ meets the requirements described in § 680.42(b)(7) or § 680.42(b)(8).

(9) For any shoreside crab processor or stationary floating crab processor east of 174 degrees west longitude to use more than 60 percent of the IPQ issued in the EAG or WAI crab QS fisheries, unless that IPQ meets the requirements described in § 680.42(b)(8).

* * * * *

■ 6. In § 680.42, revise paragraph (b)(1)(ii) and add paragraph (b)(8) to read as follows:

§ 680.42 Limitations on use of QS, PQS, IFQ, and IPQ.

* * * * *

(b) * * *

(1) * * *

(ii) Use IPQ in excess of the amount of IPQ that results from the PQS caps in paragraph (b)(1)(i) of this section, unless that IPQ is:

(A) Derived from PQS that was received by that person in the initial allocation of PQS for that crab QS fishery, or

(B) Subject to an exemption for that IPQ pursuant to § 680.4(p).

* * * * *

(8) Any IPQ crab that is received by an RCR will not be considered use of IPQ by an IPQ holder for the purposes of paragraphs (b)(1) and (b)(2) of this section, if the IPQ is subject to an exemption pursuant to § 680.4(p).

* * * * *

[FR Doc. 2013–11571 Filed 5–14–13; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 78, No. 94
Wednesday, May 15, 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.

PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

6 CFR Chapter X

[PCLOB; Docket No. 2013–0005; Sequence 1]

RIN 0311–AA01

Freedom of Information, Privacy Act, and Government in the Sunshine Act Procedures

AGENCY: Privacy and Civil Liberties Oversight Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Privacy and Civil Liberties Oversight Board is proposing regulations to implement the Freedom of Information Act, the Privacy Act of 1974, and the Government in the Sunshine Act. This proposed rulemaking describes the procedures for members of the public to request access to records. In addition, this notice also proposes procedures for the Board's responses to these requests, including the timeframe for response and applicable fees.

DATES: You must submit comments on or before July 15, 2013.

ADDRESSES: You may submit comments, identified by the docket number in the heading of this document, by the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Mail:* Written comments may be submitted by mail to: Privacy and Civil Liberties Oversight Board, c/o General Services Administration, Agency Liaison Division, ATTN: M. Conrad, 849C, 1275 First Street NE., Washington, DC 20417.

To ensure proper handling, please include the docket number on your correspondence. See **SUPPLEMENTARY INFORMATION** for further information about submitting comments.

FOR FURTHER INFORMATION CONTACT: Susan Reingold, Chief Administrative Officer, Privacy and Civil Liberties Oversight Board, at 202–331–1986 or *susanbr@dni.gov*.

SUPPLEMENTARY INFORMATION: Please note that all comments received are considered part of the public record and made available for public inspection online at *http://www.regulations.gov*. Information made available to the public includes personally identifying information (such as your name, address, etc.) voluntarily submitted by the commenter. Additional information about the handling of personally identifiable information submitted for the public record is available in the system of records notice for the federal dockets management system, EPA–GOVT–2, published in the **Federal Register** at 70 FR 15086 (March 24, 2005).

I. Background

The Privacy and Civil Liberties Oversight Board (Board) was created as an independent agency within the executive branch by the Implementing Recommendations of the 9/11 Commission Act of 2007, Public Law 110–53. It has two primary purposes: (1) To analyze and review actions the executive branch takes to protect the United States from terrorism, ensuring that the need for such actions is balanced with the need to protect privacy and civil liberties; and (2) to ensure that liberty concerns are appropriately considered in the development and implementation of laws, regulations, and policies related to efforts to protect the United States against terrorism.

This rulemaking action would implement the Board's procedures required under the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended; the Privacy Act of 1974 (Privacy Act), 5 U.S.C. 552a, as amended; and the Government in the Sunshine Act (Sunshine Act), 5 U.S.C. 552b, as amended. The FOIA requires agencies to implement procedures for public access to records. This proposed rulemaking describes the procedures for members of the public to request access to records. In addition, this notice also proposes procedures for the Board's responses to these requests, including the timeframe for response and applicable fees.

The Privacy Act imposes requirements on agencies that maintain systems of records pertaining to individuals. These requirements include procedures for an individual to request access to or amendment of information about him or herself maintained in a system of records. This proposed rulemaking describes the Board's procedures for providing individuals access to their records or to request amendment of those records, including the timeframes for response and any applicable fees.

The Sunshine Act requires public meetings for the deliberations of federal agencies headed by collegial bodies comprised of members a majority of whom are appointed by the President with the advice and consent of the Senate. Agencies subject to the Sunshine Act must publish procedures for such public meetings. As an agency headed by a Board comprised entirely of individuals appointed by the President with the advice and consent of the Senate, the Board is subject to the Sunshine Act and must publish a rulemaking to implement its public meeting procedures, including procedures to close meetings when permitted by the Sunshine Act.

Most of the proposed regulatory provisions contained in this notice of proposed rulemaking are drawn directly from requirements specified in the FOIA, Privacy Act, and Sunshine Act. In addition, the Board modeled its proposed procedures on those already adopted by other federal agencies to incorporate for its own use those practices that seem to represent "best practices" for FOIA, Privacy Act, and Sunshine Act administration.

II. Regulatory Analysis and Notices

Executive Order 12866

This proposal is not a "significant regulatory action" within the meaning of Executive Order 12866. The economic impact of these regulations should be minimal, therefore, further economic evaluation is not necessary.

Regulatory Flexibility Act, as Amended

The Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Act of 1996 (5 U.S.C. 601 *et seq.*), generally requires an agency to prepare a regulatory flexibility analysis for any rule subject to notice and comment rulemaking under the Administrative Procedure Act or any other statute, unless the agency certifies

that the rule will not have a significant economic impact on a number of small entities. Small entities include small businesses, small organizations, and small government jurisdictions. The Board considered the effects on this proposed rulemaking on small entities and certifies that these proposed rules will not have a significant impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, requires each agency to assess the effects of its regulatory actions on state, local, and tribal governments, and the private sector. Agencies must prepare a written statement of economic and regulatory alternatives anytime a proposed or final rule imposes a new or additional enforceable duty on any state, local, or tribal government or the private sector that causes those entities to spend, in aggregate, $100 million or more (adjusted for inflation) in any one year (defined in UMRA as a "federal mandate"). The Board determined that such a written statement is not required in connection with these proposed rules because they will not impose a federal mandate, as defined in UMRA.

National Environmental Policy Act

The Board analyzed this action for purposes of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and determined that it would not significantly affect the environment; therefore, an environmental impact statement is not required.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.*, federal agencies must obtain approval from the Office of Management and Budget for each collection of information they conduct, sponsor, or require through regulations. This proposed action does not include an information collection for purposes of the PRA.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999, and the Board determined that it does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

List of Subjects

6 CFR Part 1001

Administrative practice and procedure; Freedom of Information; Confidential Business Information; Privacy.

6 CFR Part 1002

Administrative practice and procedure; Privacy.

6 CFR Part 1003

Administrative practice and procedure; Public availability of information; Meetings.

In consideration of the foregoing, the Board proposes to amend title 6, Code of Federal Regulations, by adding chapter X, consisting of parts 1001–1099, to read as follows:

CHAPTER X—PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

PART 1001—PROCEDURES FOR DISCLOSURE OF RECORDS UNDER THE FREEDOM OF INFORMATION ACT

Sec.

Authority: 5 U.S.C. 552, as amended; Executive Order 12600.

§ 1001.1 Purpose and Scope.

The regulations in this part implement the provisions of the FOIA.

§ 1001.2 Definitions.

The following definitions apply in this part:

Board means the Privacy and Civil Liberties Oversight Board, established by the Implementing Recommendations of the 9/11 Commission Act of 2007, Public Law 110–53.

Chairman means the Chairman of the Board, as appointed by the President and confirmed by the Senate under section 801(a) of the Implementing Recommendations of the 9/11 Commission Act of 2007, Public Law 110–53, or any person to whom the Board has delegated authority for the matter concerned.

Chief FOIA Officer means the Chairman or, in the absence of a Chairman, the senior official to whom the Board delegated responsibility for efficient and appropriate compliance with the FOIA.

Commercial use request means a FOIA request from or on behalf of a person who seeks information for a use or purpose that furthers his or her commercial, trade, or profit interests, including pursuit of those interests through litigation.

Confidential business information means trade secrets and confidential, privileged, or proprietary business or financial information submitted to the Board by a person.

Direct costs means those expenses the Board actually incurred to search for, duplicate, and, in the case of commercial use requesters, review documents in response to a FOIA request. Direct costs include, but are not limited to, the salary of the employee performing the work and costs associated with duplication.

Educational institution means a preschool, a public or private elementary or secondary school, an institution of undergraduate or graduate higher education, an institution of professional education, or an institution of vocational education, which operates a program or programs of scholarly research.

FOIA means the Freedom of Information Act, 5 U.S.C. 552, as amended.

FOIA Officer means the individual to whom the Board delegated authority to carry out the Board's day-to-day FOIA administration.

FOIA Public Liaison means the individual designated by the Chairman to assist FOIA requesters with concerns about the Board's processing of their FOIA request.

Non-commercial scientific institution means an organization operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any product or research, and not operated on a commercial basis.

Record means any writing, drawing, map, recording, diskette, DVD, CD–ROM, tape, film, photograph, or other documentary material, regardless of medium, by which information is preserved, including documentary material stored electronically.

Redact means delete or mark over.

Representative of the news media means any person or entity that gathers information of potential public interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.

Submitter means any person or entity from whom the Board obtains confidential business information, directly or indirectly.

Unusual circumstances means, to the extent reasonably necessary for the proper processing of a FOIA request:

(1) The need to search for and collect the requested records from physically separate facilities;

(2) The need to search for, collect and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation with another agency having a substantial interest in the determination of the request.

§ 1001.3 Availability of Records.

(a) In accordance with 5 U.S.C. 552(a)(1), the Board publishes the following records in the **Federal Register** and makes an index of the records publicly available:

(1) Descriptions of the Board's organization and the established places at which, the employees from whom, and the methods by which, the public may obtain information, submit documents, or obtain decisions;

(2) Statements of the general course and method by which the Board's functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(3) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(4) Substantive rules of general applicability adopted as authorized by law and statements of general policy or interpretations of general applicability formulated and adopted by the Board; and

(5) Each amendment, revision, or repeal of any material listed in paragraphs (a)(1) through (4) of this section.

(b) In accordance with 5 U.S.C. 552(a)(2), the Board shall make the following materials available for public inspection and copying:

(1) Statements of policy and interpretation that have been adopted by the Board and not published in the **Federal Register**;

(2) Administrative staff manuals and instructions to staff that affect a member of the public;

(3) Copies of all records, regardless of the form or format, which have been released to any person under paragraph (c) of this section and that, because of their nature or subject matter, the Board determines have become or are likely to become the subject of subsequent requests for substantially the same records; and

(4) A general index of the records referred to in paragraph (b)(3) of this section.

(c) In accordance with 5 U.S.C. 552(a)(3), the Board shall make available, upon proper request, as described in section 5 of this part, all non-exempt Board records, or portions of records, not previously made public under paragraphs (a) and (b) of this section.

(d) The FOIA applies only to Board records in existence at the time of the request; the FOIA does not require that the Board create new records in order to respond to FOIA requests.

§ 1001.4 Categories of exemptions.

(a) The FOIA does not require disclosure of matters that are:

(1) Specifically authorized under criteria established by an executive order to be kept secret in the interest of national defense or foreign policy and are, in fact, properly classified under executive order;

(2) Related solely to the internal personnel rules and practices of the Board;

(3) Specifically exempted from disclosure by statute (other than the Government in the Sunshine Act, 5 U.S.C. 552b, as amended), provided that such statute:

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, establishes particular criteria for withholding, or refers to particular types of matters to be withheld; and

(ii) If enacted after October 28, 2009, specifically cites to Exemption 3 of the FOIA, 5 U.S.C. 552(b)(3);

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Inter-agency or intra-agency memoranda or letters that would be available at law to a party in litigation with the Board;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of a right to a fair trial or impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a state, local, or foreign agency or authority or any private institution that furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual.

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

(b) [Reserved]

§ 1001.5 Request for records.

(a) You may request copies of records under this part in writing addressed to FOIA Officer, Privacy and Civil Liberties Oversight Board, c/o General Services Administration, Agency Liaison Division, 1275 First Street NE., ATTN: 849C, Washington, DC 20417.

(b) Your request shall reasonably describe the records sought with sufficient specificity regarding names, dates, and subject matter to permit the FOIA Officer to locate the records. If the FOIA Officer cannot locate responsive records based on your written description, you will be notified and advised that further identifying information is necessary before the request can be fulfilled.

(c) Your request should specify your preferred form or format (including electronic formats) for the records you seek. We will accommodate your request if the record is readily available in that form or format. When you do not specify the form or format of the response, we will provide responsive records in the form or format most accessible to us.

(d) The Board interprets your FOIA request as your agreement to pay up to $25 in fees chargeable under § 1001.10 to fulfill your request, unless you specify a different amount or request a fee waiver, as further described in § 1001.10.

§ 1001.6 Responsibility for responding to requests.

(a) *In general.* The Board delegates authority to grant or deny FOIA requests in whole or in part to the FOIA Officer. When conducting a search for

responsive records, the FOIA Officer generally will search for records in existence on the date of the search. If another date is used, the FOIA Officer shall inform the requester of the date used.

(b) *Responses.* The FOIA Officer will notify you of his or her determination to grant or deny your FOIA request in the time frame stated in § 1001.8. For any adverse determination, including those regarding any disputed fee matter; a denial of a request for a fee waiver; or a determination to withhold a record, in whole or in part, that a record does not exist or cannot be located, or to deny a request for expedited processing, the notice shall include the following information:

(1) The name(s) of any person responsible for the determination to deny the request in whole or in part;

(2) A brief description of the reason(s) for the denial, including reference to any applicable FOIA exemptions;

(3) An estimate of the volume of information withheld, if applicable. This estimate does not need to be provided if it is ascertainable based on redactions in partially disclosed records or if the disclosure of the estimate would harm an interest protected by an applicable FOIA exemption; and

(4) A statement that the adverse determination may be appealed and a description of the requirements for an appeal under § 1001.7.

(c) *Consultations and referrals.*

(1) Upon receipt of a FOIA request for a record within the Board's possession, the FOIA Officer shall determine whether the Board or another federal agency is best able to determine whether the records are exempt from disclosure under the FOIA and, if so, whether the records should be released as a matter of administrative discretion. If the FOIA Officer determines that another agency is better able to evaluate the releasibility of the record, the FOIA Officer shall:

(i) Respond to the FOIA requester after consulting with any other federal agency that has an interest in the record; or

(ii) Refer the responsibility for responding to the request to the department or agency best able to determine whether to disclose it (but only if that other department or agency is subject to FOIA). Ordinarily, the department or agency that originated the record will be presumed best able to determine whether to disclose it.

(2) Whenever a request is made for information that has been classified or may be appropriate for classification by another agency, the FOIA Officer shall refer the responsibility for responding to that portion of your request to the agency that classified the information, should consider the information for classification, or has the primary interest in it, as appropriate. Whenever a record contains information that the Board has derivatively classified because it contains information classified by another agency, the FOIA Officer shall refer the responsibility for responding to the request regarding that information to the agency that classified the underlying information.

(3) If responsibility for responding to a request is referred to another department or agency, the FOIA Officer shall notify you of the referral. This notice shall identify the part of the request that has been referred and the name of each department or agency to which the request, or part of the request, has been referred.

§ 1001.7 Administrative appeals.

(a) You may appeal an adverse determination related to your FOIA request, or the Board's failure to respond to your FOIA request within the prescribed time limits, to the Chief FOIA Officer, Privacy and Civil Liberties Oversight Board, c/o General Services Administration, Agency Liaison Division, 1275 First Street NE., ATTN: 849C, Washington, DC 20417.

(b) Your appeal must be in writing and received by the Chief FOIA Officer within 60 days of the date of the letter denying your request, in whole or in part, or, in the case of the Board's failure to respond within the statutory time frame, of the date by which the Board should have responded to your request.

(c) For the quickest possible handling, your appeal letter and envelope should be marked "Freedom of Information Act appeal."

(d) Your appeal letter should state facts and cite legal or other authorities in support of your request.

(e) The Chief FOIA Officer shall respond to all administrative appeals in writing and within the time frame stated in section 1001.8(d). If the decision affirms, in whole or in part, the FOIA Officer's determination, the letter shall contain a statement of the reasons for the affirmance, including any FOIA exemption(s) applied, and will inform you of the FOIA's provisions for court review. If the Chief FOIA Officer reverses or modifies the FOIA Officer's determination, in whole or in part, you will be notified in writing and your request will be reprocessed in accordance with that decision.

§ 1001.8 Time frame for Board response.

(a) *In general.* The Board ordinarily shall respond to requests according to their order of receipt.

(b) *Multi-track processing.* The Board may use two or more processing tracks by distinguishing between simple and more complex requests based on the amount of work or time needed to process the request.

(c) *Initial decisions.* The Board shall determine whether to comply with a FOIA request within 20 working days after our receipt of the request, unless the time frame for response is extended due to unusual circumstances as further described in paragraph (f) of this section. A request is received by the Board, for purposes of commencing the 20-day timeframe for its response, on the day it is received by the FOIA Officer or, in any event, not later than ten days after the request is first received by any Board office.

(d) *Administrative Appeals.* The Chief FOIA Officer shall determine whether to affirm or overturn a decision subject to administrative appeal within 20 working days after receipt of the appeal, unless the time frame for response is extended in accordance with paragraph (e) of this section.

(e) *Tolling timelines.* We may toll the 20-day timeframe set forth in paragraphs (c) or (d) of this section:

(1) One time to await information that we reasonably requested from you, as permitted by 5 U.S.C. 552(a)(6)(A)(iii)(I);

(2) As necessary to clarify with you issues regarding the fee assessment.

(3) If we toll the time frame for response under paragraphs (e)(1) or (2) of this section, the tolling period ends upon our receipt of your response.

(f) In the event of unusual circumstances, we may extend the time frame for response provided in paragraphs (c) or (d) of this section by providing you with written notice of the unusual circumstances and the date on which a determination is expected to be made. Where the extension is for more than ten working days, we will provide you with an opportunity either to modify your request so that it may be processed within the statutorily-prescribed time limits or to arrange an alternative time period for processing your request or modified request.

(d) *Expedited processing.* You may request that the Board expedite processing of your FOIA request. To receive expedited processing, you must demonstrate a compelling need for such processing.

(1) For requests for expedited processing, a "compelling need" involves:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(ii) A request made by a person primarily engaged in disseminating information, with a time urgency to inform the public of actual or alleged federal government activity.

(2) Your request for expedited processing must be in writing and may be made at the time of the initial FOIA request or at any later time.

(3) Your request for expedited processing must include a statement, certified to be true and correct to the best of your knowledge and belief, explaining in detail the basis for requesting expedited processing. If you are a person primarily engaged in disseminating information, you must establish a particular urgency to inform the public about the federal government activity involved in the request, beyond the public's right to know about government activity generally.

(4) The FOIA Officer will decide whether to grant or deny your request for expedited processing within ten calendar days of receipt. You will be notified in writing of the determination. Appeals of adverse decisions regarding expedited processing shall be processed expeditiously.

§ 1001.9 Business information.

(a) *Designation of Confidential Business Information.* If you submit business information, you must use a good-faith effort to designate, by use of appropriate markings, at the time of submission or at a reasonable time thereafter, any portions of your submission that you consider to be exempt from disclosure under FOIA Exemption 4, 5 U.S.C. 552(b)(4). Your designation will expire ten years after the date of submission unless you request, and provide justification for, a longer designation period.

(b) *Notice to submitters.* Whenever you designate confidential business information as provided in paragraph (a) of this section, or the Board has reason to believe that your submission may contain confidential business information, we will provide you with prompt written notice of a FOIA request that seeks your business information. The notice shall:

(1) Give you an opportunity to object to disclosure of your information, in whole or in part;

(2) Describe the business information requested or include copies of the requested records or record portions containing the information; and

(3) Inform you of the time frame in which you must respond to the notice.

(c) *Opportunity to object to disclosure.* The Board shall allow you a reasonable time to respond to the notice described in paragraph (b) of this section. If you object to the disclosure of your information, in whole or in part, you must provide us with a detailed written statement of your objection. The statement must specify all grounds for withholding any portion of the information under any FOIA exemption and, when relying on FOIA Exemption 4, it must explain why the information is a trade secret or commercial or financial information that is privileged and confidential. If you fail to respond within the time frame specified in the notice, the Board will conclude that you have no objection to disclosure of your information. The Board will only consider information that we receive within the time frame specified in the notice.

(d) *Notice of intent to disclose.* The Board will consider your objection and specific grounds for non-disclosure in deciding whether to disclose business information. Whenever the Board decides to disclose business information over your objection, we will provide you with written notice that includes:

(1) A statement of the reasons why each of your bases for withholding were not sustained;

(2) A description of the business information to be disclosed; and

(3) A specified disclosure date, which shall be a reasonable time after the notice.

(e) *Exceptions to the notice requirement.* The notice requirements of paragraphs (c) and (d) of this section shall not apply if:

(1) The Board determines that the information shall not be disclosed;

(2) The information lawfully has been published or has been officially made available to the public;

(3) Disclosure of the information is required by statute (other than the FOIA) or by a regulation issued in accordance with the requirements of Executive Order 12600;

(4) The designation made by the submitter under paragraph (a) of this section appears obviously frivolous, except that, in such a case, the Board shall, within a reasonable time prior to the date the disclosure will be made, give the submitter written notice of the final decision to disclose the information.

(f) *Notice to requesters.* Whenever we provide a submitter with the notice described in paragraph (b) of this section, we also will provide notice to the requester that notice and opportunity to object to the disclosure are being provided to the submitter.

§ 1001.10 Fees.

(a) We will charge fees that recoup the full allowable direct costs we incur in processing your FOIA request. We will use the most efficient and least costly methods to comply with your request.

(b) With regard to manual searches for records, we will charge the salary rate(s) (calculated as the basic rate of pay plus 16 percent of that basic rate to cover benefits) of the employee(s) performing the search.

(c) In calculating charges for computer searches for records, we will charge at the actual direct cost of providing the service, including the cost of operating the central processing unit directly attributable to searching for records potentially responsive to your FOIA request and the portion of the salary of the operators/programmers performing the search.

(d) We may only charge requesters seeking documents for commercial use for time spent reviewing records to determine whether they are exempt from mandatory disclosure. Charges may be assessed only for the initial review—that is the review undertaken the first time we analyze the applicability of a specific exemption to a particular record or portion of a record. Records or portions of records withheld in full under an exemption that is subsequently determined not to apply may be reviewed again to determine the applicability of other exemptions not previously considered. We may assess the costs for such subsequent review.

(e) Records will be duplicated at a rate of $.10 per page, except that the Board may adjust this rate from time to time by notice published in the **Federal Register**. For copies prepared by computer, such as tapes, CDs, DVDs, or printouts, we will charge the actual cost, including operator time, of production. For other methods of reproduction or duplication, we will charge the actual direct costs of producing the document(s). If we estimate that duplication charges are likely to exceed $25, we will notify you of the estimated amount of fees, unless you indicated in advance your willingness to pay fees as high as those anticipated. Our notice will offer you an opportunity to confer with Board personnel to reformulate the request to meet your needs at a lower cost.

(f) We will charge you the full costs of providing you with the following services:

(1) Certifying that records are true copies; or

(2) Sending records by special methods such as express mail.

(g) We may assess interest charges on an unpaid bill starting on the 31st calendar day following the day on which the billing was sent. Interest shall

be at the rate prescribed in section 3717 of title 31 of the United States Code and will accrue from the date of the billing.

(h) We will not charge a search fee for requests by educational institutions, non-commercial scientific institutions, or representatives of the news media.

(i) Except for a commercial use request, we will not charge you for the first 100 pages of duplication and the first two hours of search.

(j) You may not file multiple requests, each seeking portions of a document or documents, solely in order to avoid payment of fees. When the Board reasonably believes that a requester, or a group of requesters acting in concert, has submitted requests that constitute a single request involving clearly related matters, we may aggregate those requests and charge accordingly.

(k) We may not require you to make payment before we begin work to satisfy the request or to continue work on a request, unless:

(1) We estimate or determine that the allowable charges that you may be required to pay are likely to exceed $250; or

(2) You have previously failed to pay a fee charged within 30 days of the date of billing.

(l) Upon written request, we may waive or reduce fees that are otherwise chargeable under this part. If you request a waiver or reduction in fees, you must demonstrate that a waiver or reduction in fees is in the public interest because disclosure of the requested records is likely to contribute significantly to the public understanding of the operations or activities of the government and is not primarily in your commercial interest.

PART 1002—IMPLEMENTATION OF THE PRIVACY ACT OF 1974

Sec.

Authority: 5 U.S.C. 552a.

§ 1002.1 Purpose and scope.

The regulations in this part implement the provisions of the Privacy Act.

§ 1002.2 Definitions.

The following terms used in this part are defined in the Privacy Act: *individual, maintain, record, system of records, statistical record,* and *routine use.* The following definitions also apply in this part:

Board means the Privacy and Civil Liberties Oversight Board, established by the Implementing Recommendations of the 9/11 Commission Act of 2007, Public Law 110–53.

Chairman means the Chairman of the Board, as appointed by the President and confirmed by the Senate under section 801(a) of the Implementing Recommendations of the 9/11 Commission Act of 2007, Public Law 110–53, or any person to whom the Board has delegated authority in the matter concerned.

General Counsel means the Board's principal legal advisor, or his or her designee.

Privacy Act means the Privacy Act of 1974, 5 U.S.C. 552a, as amended.

Privacy Act Officer means the person designated by the Chairman to be responsible for the day-to-day administration of the Privacy Act.

§ 1002.3 Privacy Act requests.

(a) *Requests to determine if you are the subject of a record.* You may request that the Board inform you if we maintain a system of records that contains records about you. Your request must follow the procedures described in paragraph (b) of this section.

(b) *Requests for access.* You may request access to a Board record about you in writing or by appearing in person. You should direct your request to the Privacy Act Officer. Written requests may be sent to: Privacy Act Officer, Privacy and Civil Liberties Oversight Board, c/o General Services Administration, Agency Liaison Division, 1275 First Street NE., ATTN: 849C, Washington, DC 20417. Your request should include the following information:

(1) Your name, address, and telephone number;

(2) The system(s) of records in which the requested information is contained; and

(3) At your option, authorization for copying expenses.

(4) *Written requests.* In addition to the information described in subsection (b)(1)–(3), written requests must include a statement affirming your identity, signed by you and witnessed by two persons (including witnesses' addresses) or notarized.

(i) *Witnessed.* If your statement is witnessed, it must include a sentence above the witnesses' signatures attesting that they personally know you or that you have provided satisfactory proof of your identity.

(ii) *Notarized.* If your statement is notarized, you must provide the notary with adequate proof of your identity in the form of a drivers' license, passport, or other identification acceptable to the notary.

(iii) The Board, in its discretion, may require additional proof of identification depending on the nature and sensitivity of the records in the system of records.

(iv) For the quickest possible handling, your letter and envelope should be marked "Privacy Act Request".

(5) *In person requests.* In addition to the information described in paragraphs (b)(1)–(3) of this section, if you make your request in person, you must provide adequate proof of identification at the time of your request. Adequate proof of identification includes a valid drivers' license, valid passport, or other current identification that includes your address and photograph.

(c) *Requests for amendment or correction of records.* You may request an amendment to or correction of a record about you in person or by writing to the Privacy Act Officer following the procedures described in paragraph (b) of this section. Your request for amendment or correction should identify each particular record at issue, state the amendment or correction sought, and describe why the record is not accurate, relevant, timely, or complete.

(d) *Requests for an accounting of disclosures.* Except for those disclosures for which the Privacy Act does not require an accounting, you may request an accounting of any disclosure by the Board of a record about you. Your request for an accounting of disclosures must be made in writing following the procedures described in subsection (b) of this section.

(e) *Requests for access on behalf of someone else.*

(1) If you are making a request on behalf of someone else, your request must include a statement from that individual verifying his or her identity, as provided in paragraph (b)(4) of this section. Your request also must include a statement certifying that individual's agreement that records about him or her may be released to you.

(2) If you are the parent or guardian of the individual to whom the requested record pertains, or the individual to whom the record pertains has been deemed incompetent by a court, your request for access to records about that individual must include:

(i) The identity of the individual who is the subject of the record, including his or her name, current address, and date and place of birth;

(ii) Verification of your identity in accordance with paragraph (b)(4) of this section;

(iii) Verification that you are the subject's parent or guardian, which may be established by a copy of the subject's birth certificate identifying you as his or her parent, or a court order establishing you as guardian; and

(iv) A statement certifying that you are making the request on the subject's behalf.

§ 1002.4 Responses to Privacy Act requests.

(a) *Acknowledgement.* The Privacy Act Officer shall provide you with a written acknowledgment of your written request under section 3 within ten business days of our receipt of your request.

(b) *Grants of requests.* If you make your request in person, the Privacy Act Officer shall respond to your request directly, either by granting you access to the requested records, upon payment of any applicable fee and with a written record of the grant of your request and receipt of the records, or by informing you when a response may be expected. If you are accompanied by another person, you must authorize in writing any discussion of the records in the presence of the third person. If your request is in writing, the Privacy Act Officer shall provide you with written notice of the Board's decision to grant your request and the amount of any applicable fee. The Privacy Act Officer shall disclose the records to you promptly, upon payment of any applicable fee.

(c) *Denials of requests in whole or in part.* The Privacy Act Officer shall notify you in writing of his or her determination to deny, in whole or in part, your request. This writing shall include the following information:

(1) The name and title or position of the person responsible for the denial;

(2) A brief statement of the reason for the denial(s), including any applicable Privacy Act exemption;

(3) A statement that you may appeal the denial and a brief description of the requirements for appeal under § 1002.5.

(d) *Request for records not covered by the Privacy Act or subject to Privacy Act exemption.* If the Privacy Act Officer determines that a requested record is not subject to the Privacy Act or the records are subject to Privacy Act exemption, your request will be processed in accordance with the Board's Freedom of Information Act procedures at 6 CFR Part 1001.

§ 1002.5 Administrative Appeals.

(a) *Appeal procedures.*

(1) You may appeal any decision by the Board to deny, in whole or in part, your request under § 1002.3 no later than 60 days after the decision is rendered.

(2) Your appeal must be in writing, sent to the General Counsel at the address specified in § 1002.3(b) and contain the following information:

(i) Your name;

(ii) Description of the record(s) at issue;

(iii) The system of records in which the record(s) is contained;

(iv) A statement of why your request should be granted.

(3) The General Counsel shall determine whether to uphold or reverse the initial determination within 30 working days of our receipt of your appeal. The General Counsel shall notify you of his or her decision, including a brief statement of the reasons for the decision, in writing. The General Counsel's decision will be the final action of the Board.

(b) *Statement of disagreement.* If your appeal of our determination related to your request for amendment or correction is denied in whole or in part, you may file a Statement of Disagreement that states the basis for your disagreement with the denial. Statements of Disagreement must be concise and must clearly identify each part of any record that is disputed. The Privacy Act Officer will place your Statement of Disagreement in the system of records in which the disputed record is maintained and shall mark the disputed record to indicate that a Statement of Disagreement has been filed and where it may be found.

(c) *Notification of amendment, correction, or disagreement.* Within 30 working days of the amendment or correction of a record, the Privacy Act Officer shall notify all persons, organizations, or agencies to which the Board previously disclosed the record, if an accounting of that disclosure was made, that the record has been corrected or amended. If you filed a Statement of Disagreement, the Privacy Act Officer shall append a copy of it to the disputed record whenever it is disclosed and also may append a concise statement of its reason(s) for denying the request to amend or correct the record.

§ 1002.6 Fees.

We will not charge a fee for search or review of records requested under this part, or for the correction of records. If you request copies of records, we may charge a fee of $.10 per page.

§ 1002.7 Penalties.

Any person who makes a false statement in connection with any request for a record or an amendment or correction thereto under this part is subject to the penalties prescribed in 18 U.S.C. 494 and 495 and 5 U.S.C. 552a(i)(3).

PART 1003—IMPLEMENTATION OF THE GOVERNMENT IN THE SUNSHINE ACT

Sec.

Authority: 5 U.S.C. 552b.

§ 1003.1 Purpose and scope.

(a) The regulations in this part implement the provisions of the Sunshine Act.

(b) Requests for all records other than those described in section 1003.9 of this part, shall be governed by the Board's Freedom of Information Act procedures at 6 CFR Part 1001.

§ 1003.2 Definitions.

The following definitions apply in this part:

Board means the Privacy and Civil Liberties Oversight Board, established by the Implementing Recommendations of the 9/11 Commission Act of 2007, Public Law 110–53.

Chairman means the Chairman of the Board, as appointed by the President and confirmed by the Senate under section 801(a) of the Implementing Recommendations of the 9/11 Commission Act of 2007, Public Law 110–53, or any person to whom the Board delegated authority in the matter concerned.

General Counsel means the Board's principal legal advisor, or his or her designee.

Meeting means the deliberations of three or more Board members that determine or result in the joint conduct or disposition of official Board business. A meeting does not include:

(1) Notational voting or similar consideration of business for the purpose of recording votes, whether by circulation of material to members individually in writing or by a polling of the members individually by phone.

(2) Action by three or more members to:

(i) Open or close a meeting or to release or withhold information pursuant to section 1003.6 of this part;

(ii) Set an agenda for a proposed meeting;

(iii) Call a meeting on less than seven days' notice, as permitted by § 1003.4; or

(iv) Change the subject matter or the determination to open or to close a publicly announced meeting under § 1003.7.

(3) A session attended by three or more members for the purpose of having the Board's staff or expert consultants, another federal agency, or other persons or organizations brief or otherwise provide information to the Board concerning any matters within the purview of the Board, provided that the members do not engage in deliberations that determine or result in the joint conduct or disposition of official business on such matters.

(4) A gathering of members for the purpose of holding informal, preliminary discussions or exchanges of views which do not effectively predetermine official action.

Member means an individual duly appointed and confirmed to the Board.

Public observation means attendance by the public at a meeting of the Board, but does not include public participation.

Public participation means the presentation or discussion of information, raising of questions, or other manner of involvement in a meeting of the Board by the public in a manner that contributes to the disposition of official Board business.

Sunshine Act means the Government in the Sunshine Act, 5 U.S.C. 552b.

§ 1003.3 Open meetings.

(a) Except as otherwise provided in this part, every portion of a Board meeting shall be open to public observation.

(b) Board meetings, or portions thereof, shall be open to public participation only when an announcement to that effect is published under § 1003.4. Public participation shall be conducted in an orderly, non-disruptive manner and in accordance with any procedures the Chairman may establish. Public participation may be terminated at any time for any reason.

(c) The General Counsel or his or her designee will attend and monitor all briefings and informal, preliminary discussions excluded from the definition of meeting in section 1003.2 of this part to assure that those gatherings do not proceed to the point of becoming meetings.

(d) The General Counsel or his or her designee will inform members if developing discussions at a briefing or gathering should be deferred for a meeting conducted pursuant to the Sunshine Act and these regulations.

§ 1003.4 Procedures for public announcement of meetings.

(a) Except as otherwise provided in this section, the Board shall make a public announcement at least seven days prior to a meeting. The public announcement shall include:

(1) The time and place of the meeting;

(2) The subject matter of the meeting;

(3) Whether the meeting is to be open, closed, or portions of a meeting will be closed;

(4) Whether public participation will be allowed;

(5) The name and telephone number of the person who will respond to requests for information about the meeting;

(b) The seven day prior notice required by section 1003.4(a) may be reduced only if:

(1) A majority of all members determine by recorded vote that Board business requires that such meeting be scheduled in less than seven days; and

(2) The public announcement required by this section is made at the earliest practicable time.

(c) If public notice is provided by means other than publication in the **Federal Register**, notice will be subsequently published in the **Federal Register**.

§ 1003.5 Grounds on which meetings may be closed or information withheld.

A meeting, or portion thereof, may be closed and information pertinent to such meeting withheld if the Board determines that the meeting or release of information is likely to disclose matters that are:

(a) Specifically authorized under criteria established by an executive order to be kept secret in the interests of national defense or foreign policy; and, in fact, are properly classified pursuant to such executive order. In making the determination that this exemption applies, the Board shall rely on the classification assigned to the document from the federal agency from which the document was received.

(b) Related solely to the internal personnel rules and practices of the Board;

(c) Specifically exempt from disclosure by statute (other than 5 U.S.C. 552), provided that such statute:

(1) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

(2) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(d) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(e) Involved with accusing any person of a crime or formally censuring any person;

(f) Of a personal nature, if disclosure would constitute a clearly unwarranted invasion of personal privacy;

(g) Either investigatory records compiled for law enforcement purposes or information which, if written, would be contained in such records, but only to the extent that the production of records or information would:

(1) Interfere with enforcement proceedings;

(2) Deprive a person of a right to either a fair trial or an impartial adjudication;

(3) Constitute an unwarranted invasion of personal privacy;

(4) Disclose the identity of a confidential source or sources and, in the case of a record compiled either by a criminal law enforcement authority or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source(s);

(5) Disclose investigative techniques and procedures; or

(6) Endanger the life or physical safety of law enforcement personnel;

(h) Contained in or relating to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(i) If prematurely disclosed, likely to significantly frustrate implementation of a proposed action of the Board, except that this subsection shall not apply in any instance where the Board has already disclosed to the public the content or nature of its proposed action or is required by law to make such disclosure on its own initiative prior to taking final action on such proposal; and

(j) specifically concerned with the Board's issuance of a subpoena, or its participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Board of a particular case or formal agency adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing.

§ 1003.6 Procedures for closing meetings or withholding information, and requests by affected persons to close a meeting.

(a) A meeting or portion of a meeting may be closed and information pertaining to a meeting withheld under § 1003.5 only by vote of a majority of members.

(b) A separate vote of the members shall be taken with respect to each meeting or portion of a meeting proposed to be closed and with respect to information which is proposed to be withheld. A single vote may be taken with respect to a series of meetings or portions of a meeting that are proposed to be closed, so long as each meeting or portion thereof in the series involves the same particular matter and is scheduled to be held no more than 30 days after the initial meeting in the series. The vote of each member shall be recorded and no proxies shall be allowed.

(c) A person whose interests may be directly affected by a portion of a meeting may request in writing that the Board close that portion for any of the reasons referred to in § 1003.5(e), (f), and (g). Upon the request of a member, a recorded vote shall be taken whether to close such meeting or portion thereof.

(d) For every meeting closed, the General Counsel shall publicly certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant basis for closing the meeting. If the General Counsel invokes the bases set forth in § 1003.5(a) or (c), he/she shall rely upon the classification or designation assigned to the information by the originating agency. A copy of such certification, together with a statement by the presiding officer setting forth the time and place of the meeting and the persons present, shall be retained by the Board as part of the transcript, recording, or minutes required by § 1003.8.

§ 1003.7 Changes following public announcement.

(a) The time or place of a meeting may be changed following the public announcement described in section 1003.4 only if the Board publicly announces such change at the earliest practicable time. Members need not approve such change.

(b) The subject matter of a meeting or the determination of the Board to open or close a meeting, or a portion thereof, to the public may be changed following public announcement if:

(1) A majority of all members determine by recorded vote that Board business so requires and that no earlier announcement of the change was possible; and

(2) The Board publicly announces such change and the vote of each member thereon at the earliest practicable time.

(c) The deletion of any subject matter announced for a meeting is not a change requiring the approval of the Board under subsection (b) of this section.

§ 1003.8 Transcripts, recordings, or minutes of closed meetings.

Along with the General Counsel's certification and presiding officer's statement referred to in § 1003.6(d), the Board shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or a portion thereof, closed to the public. Alternatively, for any meeting closed pursuant to § 1003.5(h) or (j), the Board may maintain a set of minutes adequate to record fully the proceedings, including a description of each of the views expressed on any item and the record of any roll call vote.

§ 1003.9 Public availability and retention of transcripts, recordings, and minutes, and applicable fees.

(a) The Board shall make available to the public the transcript, electronic recording, or minutes of a meeting, except for items of discussion or testimony related to matters the Board determines may be withheld under § 1003.6.

(b) Copies of the nonexempt portions of the transcripts or minutes shall be provided upon request at the actual costs of the transcription or duplication.

(c) The Board shall maintain meeting transcripts, recordings, or minutes of each meeting closed to the public for a period ending at the later of two years following the date of the meeting, or one year after the conclusion of any Board proceeding with respect to the closed meeting.

PARTS 1004–1099 [RESERVED]

Dated: May 8, 2013.

Claire McKenna,

Legal Counsel.

[FR Doc. 2013–11333 Filed 5–14–13; 8:45 am]

BILLING CODE 6820–B3–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1180; Directorate Identifier 2012–CE–032–AD]

RIN 2120–AA64

Airworthiness Directives; Hawker Beechcraft Corporation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: We are revising an earlier proposed airworthiness directive (AD) for certain Hawker Beechcraft Corporation (HBC) Models 58, 58TC, 58P, 95C55, E55, and 56TC airplanes. That NPRM proposed requiring inspections of elevator balance weights and replacement of defective elevator balance weights. That NPRM was prompted by reports of elevator balance weights becoming loose or failing because the balance weight material was under strength and did not meet material specifications. This action revises that NPRM to prohibit the installation of designated spare parts and to clarify applicability. We are proposing this supplemental NPRM to correct the unsafe condition on these products. Since these actions impose an additional burden over that proposed in the NPRM, we are reopening the comment period to allow the public the chance to comment on these proposed changes.

DATES: We must receive comments on this supplemental NPRM by July 1, 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:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Hawker

Beechcraft Corporation, B091–A04, 10511 E. Central Ave., Wichita, Kansas 67206; telephone: 1 (800) 429–5372 or (316) 676–3140; fax: (316) 676–8027; email: *tmdc@hawkerbeechcraft.com*; or Internet: *http://www.hawkerbeechcraft.com/customer_support/technical_and_field_support/*. 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 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: T. N. Baktha, Senior Aerospace Engineer, FAA, Wichita ACO, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4155; fax: (316) 946–4107; email: *t.n.baktha@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2012–1180; Directorate Identifier 2012–CE–032–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 issued an NPRM to amend 14 CFR part 39 to include an AD that would apply to certain Hawker Beechcraft Corporation (HBC) Models 58, 58TC, 58P, 95C55, E55, and 56TC airplanes. That NPRM published in the **Federal Register** on November 6, 2012 (77 FR 66566). That NPRM proposed to require inspections of elevator balance weights and replacement of defective elevator balance weights. The balance weight material was understrength and did not meet the material specification requirements. A balance weight looseness and/or failure could reduce the flutter speed and lead to loss of control.

Actions Since Previous NPRM Was Issued

Since we issued the previous NPRM (77 FR 66566, November 6, 2012), we identified the need to clarify the applicability and prohibit the installation of designated spare parts on airplanes. This change decreases the exposed risk by not allowing known faulty parts to enter into service and mitigates the chance of multiple opportunities for the same airplane to experience faulty part installation reintroducing the unsafe condtion.

Comments

We gave the public the opportunity to comment on the original NPRM (77 FR 66566, November 6, 2012). We received no comments on that NPRM or on the determination of the cost to the public.

FAA's Determination

We are proposing this supplemental NPRM 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. Certain changes described above expand the scope of the original NPRM (77 FR 66566, November 6, 2012). As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this supplemental NPRM.

Proposed Requirements of the Supplemental NPRM

This supplemental NPRM would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

We estimate that this proposed AD affects 1,326 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection of the elevator balance weight	.5 work-hour × $85 per hour = $42.50	Not applicable	$42.50	$56,355

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement of elevator balance weight	1 work-hour × $85 per hour = $85	$300	$385

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

Authority for This Rulemaking

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

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

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

Regulatory Findings

We 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):

Hawker Beechcraft Corporation: Docket No. FAA–2012–1180; Directorate Identifier 2012–CE–032–AD.

(a) Comments Due Date

We must receive comments by July 1, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Hawker Beechcraft Corporation (HBC) Models 58, 58TC, 58P, 95C55, E55, and 56TC airplanes, all serial numbers, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 2730: Elevator Balance Weight.

(e) Unsafe Condition

This AD was prompted by reports of elevator balance weights becoming loose or failing because the balance weight material was under strength and did not meet material specifications. We are issuing this AD to prevent the elevator balance weights from becoming lose or failing, which could result in reduced flutter speed and lead to loss of control.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done, following the instructions in Hawker Beechcraft Mandatory Service Bulletin SB 55–4089, Revision 1, dated February, 2012.

(g) Inspect Maintenance Records

(1) For Model 58 airplanes, serial numbers TH–1768 through TH–2110, review the airplane maintenance records to determine if either of the elevator balance weights have ever been replaced. An owner/operator (pilot) holding at least a private pilot certificate is allowed to do this action.

(i) If, as a result of the maintenance records check, you positively identify that one or both of the elevator balance weights have never been replaced, then complete all of the actions in paragraph (h) and (i), all subparagraphs, as applicable in this AD.

(ii) If, as a result of the maintenance records check, you identify both balance weights have been replaced and you can positively identify by means of an Airworthiness Approval Tag (FAA Form 8130–3) or other positive form of parts identification such as a shipping ticket, invoice, or direct ship authority letter, that the purchase date from Hawker Beechcraft Corporation (HBC) on both balance weights is outside the date range of January 1, 1996, and December 31, 2005, then no further action is required for this AD.

(iii) For a replaced balance weight, if you cannot positively identify the date of purchase of a balance weight from HBC, then you must complete all of the actions in paragraph (h) and (i), all subparagraphs, as applicable in this AD.

(2) For Model 58 airplanes, all serial numbers (except TH–1768 through TH–2110), and Models 58TC, 58P, 95C55, E55, and 56TC airplanes, all serial numbers, review the airplane maintenance records to determine if the elevator balance weights have ever been replaced. An owner/operator (pilot) holding at least a private pilot certificate is allowed to do this action.

(i) If, as a result of the maintenance records check, you positively identify that both of the elevator balance weights have never been replaced, then no further action is required for this AD. An owner/operator (pilot) holding at least a private pilot certificate is allowed to do this action.

(ii) If, as a result of the maintenance records check, you identify that one or both of the balance weights have been replaced and you can positively identify by means of an Airworthiness Approval Tag (FAA Form 8130–3) or other positive form of parts identification such as a shipping ticket, invoice, or direct ship authority letter, that the purchase date from HBC is outside the date range of January 1, 1996, and December 31, 2005, then no further action is required for this AD.

(iii) If you cannot positively identify the date of purchase of an aircraft balance weight from HBC, then you must perform all of the actions in paragraph (h) and (i), all subparagraphs, as applicable in this AD.

(h) Inspection of Elevator Balance Weight

Before further flight after the effective date of this AD and thereafter at intervals not to exceed 100 hours time-in-service (TIS) until the replacement required by this AD is done, inspect the elevator balance weights for looseness, failure, and/or working (smoking) fasteners and inserts.

(i) Replacement of Elevator Balance Weight

(1) Replace the defective elevator balance weight with an airworthy balance weight as specified in Hawker Beechcraft Mandatory Service Bulletin SB 55–4089, Revision 1, dated February, 2012, at either paragraph (i)(1)(i) or (i)(1)(ii) of this AD, whichever occurs first:

(i) Before further flight after any inspection required by paragraph (g) of this AD where any looseness, failure, and/or working (smoking) fasteners and inserts are found; or,

(ii) Within the next 200 hours TIS after the effective date of this AD.

(2) Replacement of elevator balance weights with airworthy elevator balance weights terminates the 100-hour inspection requirement in paragraph (g) of this AD.

(3) As of the effective date of this AD, do not install P/N 96–610022, P/N 96–61022–5, P/N 96–610022–7, and P/N 96–610022–9 elevator balance weight assemblies, if originally purchased from Hawker Beechcraft Corporation between January 1, 1996, and December 31, 2005, on any airplane.

(j) Special Flight Permit

Special flight is permitted with the following limitations: Maximum structural cruising speed (V_{no}) = Design Speed for maximum gust intensity (V_b) = 195 Knots Calibrated Airspeed (KCAS), or V_{no}=V_b=195KCAS. This special flight is not allowed into known turbulence, and the duration of this flight should not be more than a total of 10 hours TIS.

(k) Alternative Methods of Compliance (AMOCs)

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

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

(l) Related Information

(1) For more information about this AD, contact T. N. Baktha, Senior Aerospace Engineer, FAA, Wichita ACO, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4155; fax: (316) 946–4107; email: *t.n.baktha@faa.gov*.

(2) For service information identified in this AD, contact Hawker Beechcraft Corporation, B091–A04, 10511 E. Central Ave., Wichita, Kansas 67206; telephone: 1 (800) 429–5372 or (316) 676–3140; fax: (316) 676–8027; email: *tmdc@hawkerbeechcraft.com;* or Internet: *http://www.hawkerbeechcraft.com/customer_support/technical_and_field_support/*. You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on May 8, 2013.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–11535 Filed 5–14–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF EDUCATION

34 CFR Chapter III

[CFDA Number: 84.133B–11]

Proposed Priority—National Institute on Disability and Rehabilitation Research—Rehabilitation Research and Training Centers

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Proposed priority.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority under the Rehabilitation Research and Training Center (RRTC) Program administered by the National Institute on Disability and Rehabilitation Research (NIDRR). Specifically, this notice proposes a priority for an RRTC on Community Living Policy. We take this action to focus research attention on areas of national need. We intend the priority to contribute to improved outcomes in this area for individuals with disabilities.

DATES: We must receive your comments on or before June 14, 2013.

ADDRESSES: Address all comments about this notice to Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue SW., room 5133, Potomac Center Plaza (PCP), Washington, DC 20202–2700.

If you prefer to send your comments by email, use the following address: *marlene.spencer@ed.gov*. You must include the phrase "Proposed Priority for an RRTC on Community Living Policy" in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Marlene Spencer. Telephone: (202) 245–7532 or by email: *marlene.spencer@ed.gov*.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: This proposed priority is in concert with NIDRR's Long-Range Plan for Fiscal Years 2013–2017 (Plan). The Plan, which was published in the **Federal Register** on April 4, 2013 (78 FR 20299), can be accessed on the Internet at the following site: *www.ed.gov/about/offices/list/osers/nidrr/policy.html*.

Through the implementation of the Plan, NIDRR seeks to improve outcomes for individuals with disabilities in the domains of health and function, employment, and community living and participation through comprehensive programs of research, engineering, training, technical assistance, and knowledge translation and dissemination. The Plan reflects NIDRR's commitment to quality, relevance, and balance in its programs to ensure appropriate attention to all aspects of well-being of individuals with disabilities and to all types and degrees of disability, including low-incidence and severe disabilities.

This notice proposes a priority that NIDRR intends to use for one or more competitions in Fiscal Year (FY) 2013 and possibly later years. However, nothing precludes NIDRR from publishing additional priorities, if needed. Furthermore, NIDRR is under no obligation to make an award using this priority. The decision to make an award will be based on the quality of applications received and available funding.

Invitation to Comment: We invite you to submit comments regarding this priority. To ensure that your comments have maximum effect in developing the final priority, we urge you to identify clearly the specific topic that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from this proposed priority. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this proposed priority in room 5133, 550 12th Street SW., PCP, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Purpose of Program: The purpose of the Disability and Rehabilitation Research Projects and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities, to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Rehabilitation Act).

Rehabilitation Research and Training Centers

The purpose of the RRTCs, which are funded through the Disability and Rehabilitation Research Projects and Centers Program, is to achieve the goals of, and improve the effectiveness of, services authorized under the

Rehabilitation Act through advanced research, training, technical assistance, and dissemination activities in general problem areas, as specified by NIDRR. These activities are designed to benefit rehabilitation service providers, individuals with disabilities, and the family members or other authorized representatives of individuals with disabilities. Additional information on the RRTC program can be found at: *www.ed.gov/rschstat/research/pubs/res-program.html#RRTC.*

Program Authority: 29 U.S.C. 762(g) and 764(b)(2).

Applicable Program Regulations: 34 CFR part 350.

Proposed Priority

This notice contains one proposed priority.

RRTC on Community Living Policy

Background: It is estimated that there are 51.5 million adults with disabilities in the United States (Brault, 2012). This number is expected to increase by at least 20 percent in the next 25 to 30 years, primarily as a result of the aging of the baby boom generation and the associated increased risk of disability (IOM, 2007).

The Americans with Disabilities Act (1990) (ADA), as reaffirmed by the Supreme Court in *Olmstead et al.* v. *L.C. et al.*, 527 U.S. 581 (1999), established that the segregation of individuals with disabilities is discrimination, except in special and uncommon circumstances. Since the *Olmstead* decision, the Federal Government has enforced the ADA through litigation (e.g., *United States* v. *Commonwealth of Virginia* 2012) and through programs that provide enhanced opportunities and incentives for the use of community settings other than segregated nursing and other institutional care settings (Centers for Medicare and Medicaid Services, 2012).

Progress in fulfilling the mandates and promises of the ADA and the *Olmstead* decision has been steady. Between FY 2002 and FY 2009, 77 percent of the increase in Medicaid long-term service and support (LTSS) expenditures went to home and community-based services (National Council on Disability, 2011). However, Medicaid expenditures for institutional care continue to exceed those for home and community-based services. Furthermore, great disparities exist in access to home and community-based services across the States and among people with different disability characteristics (Eiken, Sredl, Burwell & Gold, 2010). A number of factors associated with such variations have been identified, including differences in the influence of condition-specific advocacy groups, support of service provider trade associations and service employee unions, strength of political leadership and the capacity of States to advance reforms on multiple fronts, and the expectations and demands of individuals with disabilities and their families (Parish, 2002).

In March 2013, the U.S. Department of Health and Human services (HHS) launched a new Community Living Council in support of the "Secretary's Strategic Initiative to Promote Community Living for Older Adults and People with Disabilities" (Initiative) (U.S. Department of Health and Human Services, 2013). The Initiative is an effort to increase opportunities for individuals with disabilities to be maximally integrated, productive, and independent in the communities in which they choose to live. To this end the Initiative engages multiple HHS agencies and partners from other Departments to assist States in making their systems of LTSS more community-based, consumer-directed, and outcome-focused and better integrated with the transformations occurring in health care.

The Initiative includes major efforts to provide factual, accessible, and easily understood information to individuals with disabilities and their families about LTSS options and the outcomes associated with them. The Initiative also includes efforts to inform and empower consumers and their family caregivers with the best data and information available so that they can participate actively in designing, implementing, and improving State systems of services and supports, including emerging models of integrated health care and LTSS.

The intent of the Initiative corresponds directly with NIDRR's mission to generate new knowledge and promote its effective use to improve the abilities of people with disabilities to perform activities of their choice in the community and to expand society's capacity to provide full opportunities and accommodations for its citizens with disabilities. To further the central goals of the Initiative, NIDRR is partnering with the Administration for Community Living, a part of HHS, to create a national RRTC on Community Living Policy. The purpose of this RRTC will be to engage in research, data analysis and modeling, knowledge translation, and development of informational products to support improvements in community living services and supports for individuals with disabilities.

References

Brault, M.W. (2012). Americans with disabilities: 2010. Current population reports, pp. 70–131. Washington, DC: U.S. Census Bureau, U.S. Department of Commerce. Available from: *www.census.gov/prod/2012pubs/p70-131.pdf.*

Centers for Medicare and Medicaid Services (2012). Money follows the person. Available from: *www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Support/Balancing/Money-Follows-the-Person.html.*

Eiken, S., Sredl, K., Burwell, B., & Gold, L. (2010). Medicaid long-term care expenditures in FY 2009. Cambridge, MA: Thomson Reuters.

Institute of Medicine (IOM) (2007). The future of disability in America. Washington, DC: The National Academies Press.

National Council on Disability (2011). National disability policy: A progress report. Washington, DC: Author.

Parish, S. (2002). Forces shaping developmental disabilities services in the States: A comparative study. In D. Braddock (Ed.), Disability at the dawn of the 21st century, pp. 353–475. Washington, DC: American Association on Intellectual and Developmental Disability.

United States v. *Commonwealth of Virginia, No. 3:12cv59–JAG (E.D. VA.* 2012). Consent Decree available from: *www.ada.gov/olmstead/documents/virginia_consent_order.pdf.*

U.S. Department of Health and Human Services (2013). Community Living Initiative. Available from: *www.hhs.gov/od/community/index.html.*

Proposed Priority: The Assistant Secretary for Special Education and Rehabilitative Services, in collaboration with the Administration on Community Living (ACL), proposes a priority for an RRTC on Community Living Policy. The RRTC will engage in research, statistical analyses and modeling, knowledge translation, development of informational products, and dissemination to contribute to increased access to, and improved quality of, long-term services and supports for individuals with disabilities. The RRTC's work is intended to inform the design, implementation, and continuous improvement of Federal and State policies and programs related to long-term services and supports (LTSS) for individuals with disabilities. The RRTC will identify and develop information for individuals with disabilities and their family members to guide their informed choice of community service and support options that best meet their needs.

The RRTC must be designed to contribute to improved community living and participation outcomes of individuals with disabilities. The RRTC must contribute to these outcomes by:

(a) Establishing a long-term research plan related to community living policy. This plan, once implemented, must contribute relevant and high-quality data and information that will serve as an empirical foundation for improving community living policies and programs for individuals with disabilities. This task includes:

(i) Developing and prioritizing a list of research questions and evaluation topics that, when addressed, will lead to research-based information that can be used to improve community living policies, programs, and outcomes;

(ii) Working with NIDRR and ACL to identify relevant data sets and informational resources that can be analyzed to address the questions and topics in the research plan.

(b) Conducting research and research syntheses to identify and evaluate promising practices that States have used and could adopt as part of their State systems for the provision of LTSS. This task includes:

(i) Identifying components of national or State standards for "model" LTSS State systems; and

(ii) Identifying and assessing methods for monitoring, tracking, and evaluating States' LTSS systems.

(c) Identifying and involving key stakeholders in the research and research planning activities conducted under paragraphs (a) and (b) to maximize the relevance and usefulness of the research products being developed. Stakeholders must include, but are not limited to, individuals with disabilities and their families, national, State, and local-level policymakers, service providers, and relevant researchers in the field of disability and rehabilitation research.

(d) Identifying, evaluating, and disseminating accessible information at the national, State, and provider levels on topics of importance to the development and implementation of high-quality community living policies and programs. These topics include, but are not limited to: Transitions from fee-for-service to integrated/managed LTSS systems and associated outcomes and costs; transitions from agency-directed to consumer-directed services and associated outcomes and costs; costs and benefits of various supports for individuals and families, such as care coordination, respite care, and remote monitoring; and other topics to be determined in collaboration with key stakeholders and NIDRR and ACL representatives.

(e) Establishing a network of technical assistance providers and advocacy entities to assist in synthesizing and disseminating information related to implementing high-quality community living policies, programs, and practices for individuals with disabilities. Network members may include, but are not limited to: The Americans with Disabilities Act National Network Regional Centers, the Aging and Disability Resource Centers, the Governor's Planning Councils on Developmental Disabilities, the Money Follows the Person Technical Assistance Center, Client Assistance Programs, and Protection and Advocacy Programs.

(f) Serving as a national resource center related to community living policy by:

(i) Providing information and technical assistance to service providers, individuals with disabilities and their representatives, and other key stakeholders; and

(ii) Providing training, including graduate, pre-service, and in-service training, to rehabilitation providers, rehabilitation research personnel, and other disability service providers, to facilitate more effective delivery of services to individuals aging with long-term physical disabilities. This training may be provided through conferences, workshops, public education programs, in-service training programs, and similar activities.

Types of Priorities: When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Priority: We will announce the final priority in the **Federal Register**. We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an "economically significant" rule);

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

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

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

This proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and

taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing this proposed priority only upon a reasoned determination that its benefits would justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on the analysis that follows, the Department believes that this proposed priority is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

The benefits of the RRTC Program have been well established over the years, as projects similar to the one envisioned by the proposed priority have been completed successfully. The new RRTC would generate, disseminate, and promote the use of new information that would improve outcomes for individuals with disabilities in the area of community living and participation.

Intergovernmental Review: This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or TTY, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: May 9, 2013.

Michael K. Yudin,

Delegated the authority to perform the functions and the duties of the Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2013–11430 Filed 5–14–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AN89

Secondary Service Connection for Diagnosable Illnesses Associated With Traumatic Brain Injury

Correction

In proposed rule document 2012–29709 beginning on page 73366 in the issue of Monday, December 10, 2012 make the following correction:

§ 3.310 [Corrected]

On page 73369, in § 3.310(d)(3)(i), the table should read as set forth below:

Mild	Moderate	Severe
Normal structural imaging	Normal or abnormal structural imaging	Normal or abnormal structural imaging.
LOC = 0–30 min	LOC >30 min and <24 hours	LOC >24 hrs.
AOC = a moment up to 24 hrs	AOC >24 hours. Severity based on other criteria.	
PTA = 0–1 day	PTA >1 and <7 days	PTA > 7 days.
GCS = 13–15	GCS = 9–12	GCS = 3–8.

Note: The factors considered are:
Structural imaging of the brain.
LOC—Loss of consciousness.
AOC—Alteration of consciousness/mental state.
PTA—Post-traumatic amnesia.
GCS—Glasgow Coma Scale. (For purposes of injury stratification, the Glasgow Coma Scale is measured at or after 24 hours.)

[FR Doc. C1–2012–29709 Filed 5–14–13; 8:45 am]
BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2008–0402; FRL–9811–8]

Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Permit Exemption Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Wisconsin State Implementation Plan (SIP) submitted by the Wisconsin Department of Natural Resources (WDNR) on April 23, 2008. WDNR has submitted for approval revisions that exempt certain sources of air pollution from construction permit requirements. EPA is proposing to approve these revisions because they are consistent with Federal regulations governing state permit programs.

DATES: Comments must be received on or before June 14, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2008–0402, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: damico.genevieve@epa.gov.*
3. *Fax:* (312) 385–5501.
4. *Mail:* Genevieve Damico, Chief, Air Permits Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* Genevieve Damico, Chief, Air Permits Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2008–0402. 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. For additional instructions on submitting comments, go to section I of the **SUPPLEMENTARY INFORMATION** section of this document.

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 Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Andrea Morgan, Environmental Engineer, at (312) 353–6058 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Andrea Morgan, Environmental Engineer, Air Permits Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–6058, *morgan.andrea@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

I. What should I consider as I prepare my comments for EPA?

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
2. Follow directions—EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns, and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

II. What revisions did WDNR submit?

Wisconsin submitted revisions to its rules NR 406 (requirements for construction permits), NR 407 (requirements for operation permits), and NR 410 (requirements for fees) on April 23, 2008. The submittal requests that EPA approve the following revisions to WDNR's SIP: (1) renumber and create NR 406.02(1) and 406.04(4)(h); (2) create NR 406.04(1)(zh), NR 406.04(1q), NR 406.04(4)(i), NR 407.03(1m), and NR 410.03(1)(f); and (3) amend NR 410.03(1)(d).

In a letter dated March 25, 2013, Wisconsin provided additional information as required by section 110(l) of the Clean Air Act (the Act) to demonstrate that "the revision would not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 7501 of this title [section

171]), or any other applicable requirement of this Act." In this letter WDNR also clarified that the revisions to NR 407.03(1m) are not to be approved into its SIP at this time but will be included in a future title V approval package request.

The revisions submitted will exempt sources of air pollution whose actual emissions are under 10 tons per year (tpy) of each criteria pollutant, particulate matter of 10 micrometers or less (PM_{10}), sulfur dioxide (SO_2), nitrogen oxides (NO_X), carbon monoxide (CO) and volatile organic compounds (VOC), and less than 0.5 tpy of lead, and that are not subject to Federal air pollution requirements for hazardous air pollutants under section 111 or 112 of the Act from the requirement to obtain a construction permit. The revisions will also exempt construction or modification projects that emit less than 1,666 pounds of criteria pollutants per month, averaged over a 12 consecutive month period, and less than 10 pounds of lead per month, averaged over a 12 consecutive month period from construction permitting requirements.

WDNR submitted the following revisions to NR 406, Wisconsin's construction permit provision. NR 406.02(1) is renumbered to NR 406.02(1m). NR 406.02(1) is created to add a definition for "clean fuel." NR 406.04(1)(zh)1. and 406.04(1)(zh)2. are created to provide for an exemption from construction permit requirements for sources that qualify for the exemption under NR 407.03(1m).

NR 406.04(1q) is created to exempt sources from construction permit requirements if the following criteria are met: (1) The owner or operator has a facility-wide operation permit or has submitted an application for a facility-wide operation permit; (2) actual emissions from the constructed or modified units do not exceed (a) 1,666 pounds per month averaged over 12 months for criteria pollutants, and (b) 10 pounds per month averaged over 12 months for lead; (3) none of the constructed or modified units requires a new Best Available Control Technology or Lowest Achievable Emission Rate determination under NR 445 (Wisconsin's hazardous air pollutant rules); (4) none of the constructed or modified units are subject to new permitting requirements under NR 405 or 408 (Wisconsin's Prevention of Significant Deterioration (PSD) and nonattainment New Source Review (NSR) rules) as a result of the project; (5) the owner or operator submits an application for an operation permit revision, prior to commencing construction and (a) proposes monitoring in accordance with the monitoring requirements in NR 430.055, and (b) commences such monitoring and maintains records to demonstrate compliance with any applicable emission limitation; (6) the owner or operator submits a claim of exemption from construction permitting requirements; and (7) the constructed or modified unit does not trigger an emissions limitation or requirement under sections 111 or 112 of the Act.

NR 406.04(4)(h) is created to exempt changes in the method of operation for process lines emitting VOCs from construction permitting requirements if: (1) the change does not result in annual potential VOC emissions that exceed the currently allowed annual potential VOC emissions; and (2) the change does not trigger a requirement under sections 111 or 112 of the Act.

NR 406.04(4)(i) is created to exempt a change to an external combustion furnace to allow combustion of a clean fuel from construction permitting requirements if the following three criteria are met: (1) The external combustion furnace has a maximum heat input capacity of 10 million British thermal units per hour (mmBtu/hour) for distillate oil and 25 mmBtu/hr for natural gas or propane; (2) the use of the new fuel does not cause or exacerbate the exceedance of any ambient air quality standard or increment; and (3) the change does not trigger a requirement under section 111 or 112 of the Act.

In the original submission, WDNR requested for provisions in NR 407, which pertain to operation permit requirements, to be approved into the SIP. However, in a letter dated March 25, 2013, WDNR withdrew the NR 407 provisions from the SIP submittal.

NR 410 contains Wisconsin's air permit, emission, and inspection fees. WDNR amended NR 410.03(1)(d) to create subparagraph (f), which requires a fee for each construction permit exemption claim.

WDNR held public hearings on June 27, 28 and 29, 2006, for these proposed revisions. WDNR proposed the rule revisions to the Wisconsin Natural Resources Board for adoption in August 2006, and the Board approved the rule revisions, which were published in the Wisconsin Register on May 31, 2007, and became effective on June 1, 2007.

III. Does this submittal comply with Federal regulations?

EPA has evaluated WDNR's proposed revisions to the Wisconsin SIP in accordance with the Federal requirements governing state permitting programs. The revisions described in section II, above, will exempt certain sources of air pollution from construction permit requirements. As discussed further below, EPA is proposing to approve these revisions because they are consistent with Federal regulations.

Construction permitting requirements, including emissions thresholds for major sources of air pollution, are defined in the Federal PSD program (*See* 40 CFR 51.166). Wisconsin rule NR 405 contains its PSD program requirements. Permitting requirements for major sources of air pollution in nonattainment areas are defined in the Federal NSR program (*See* 40 CFR 51.165). Wisconsin rule NR 408 contains its nonattainment area permitting requirements. WDNR's proposed rule changes do not request any revision to NR 405 or NR 408, nor is the permit exemption proposed in this SIP submittal allowed if an emission unit constructed, modified, replaced, relocated, or reconstructed is subject to the requirements of NR 405 or 408, as approved into the SIP at 73 FR 76560 (December 17, 2008), as a result of the project. While the proposed exemption is based on actual emissions, if the potential to emit (PTE) of a project exceeds the significant net emission increase threshold under NR 405 or NR 408, the project is not eligible for the exemption under NR 406.04(1q)(d). This requirement is included in NR 406.04(1q)(d), which states that NR 406.04(1q) does not provide an exemption from construction permit requirements for a source that is required to obtain a permit under NR 405 or 408.

Facilities and projects that are non-major are governed by the minor NSR permitting program. The Federal requirements for minor source programs are outlined 40 CFR 51.160 through 51.164. In general, the purpose of a permitting authority's minor source program is to attain and maintain the National Ambient Air Quality Standards (NAAQS). The minor NSR program requirements, which are set forth in 40 CFR 51.160, require a state or permitting authority to have a program: (1) to determine "whether construction or modification" of a source will interfere with the SIP or attainment or maintenance of the NAAQS; and, (2) to include procedures to "prevent the construction or modification" of the source if it would interfere with the SIP or attainment or maintenance of the NAAQS. While the PSD program provides certain emissions thresholds for permitting, the minor NSR program

does not set forth any such permit applicability thresholds.

Wisconsin's current rules at NR 406 contain two types of exemptions from construction and operation permit requirements. The first type are exemptions which apply to a specific list of processes, emission units, or activities that are excluded from the minor NSR permitting program, and the second type are general exemptions based on emissions applicability thresholds. The exemptions proposed in this SIP revision are emissions applicability thresholds based exemptions and are similar to the general emissions based exemptions in WDNR's existing SIP approved rules.

The August 21, 2006, (71 FR 48696) proposed "Review of New Sources and Modifications in Indian Country" (Tribal Minor NSR Rule), discusses minor NSR permit thresholds. It states, "The Federal regulations for minor source programs are considerably less detailed than the requirements for major sources. As a result, there is a wider variety of programs and requirements for these "non-major" preconstruction activities and there is a great deal of variation among State minor NSR permitting programs." (71 FR 48700).

This rule also states that, " . . . a number of State programs have established cutoff levels or minor NSR thresholds, below which sources are exempt from their minor NSR rules." (71 FR 48701). The rule further provides, " . . . there is variation in State approaches to minor NSR applicability. Some States do not prescribe source applicability thresholds, instead providing a list of emission units and activities that are excluded from minor NSR. Many of the States that do have applicability thresholds also provide a list of excluded emission units and activities." (71 FR 48701).

In the rule, EPA proposes 10 tpy as the minor NSR permitting threshold for CO, NO_X, SO_2, and PM in attainment areas. The rule states that "We consider the proposed thresholds to be representative of such thresholds in State minor NSR programs, and we believe that these limits will be appropriate for use in Indian country." (71 FR 48702). In addition, the rule provides, "Section 110(a)(2)(C) of the Act requires minor NSR programs to assure that the NAAQS are attained and maintained. Applicability thresholds are proper in this context provided that the sources and modifications with emissions below the thresholds are inconsequential to attainment and maintenance of the NAAQS. As discussed further, the minor NSR thresholds that we are proposing today meet this criterion." (71 FR 48701).

WDNR's proposal for a 10 tpy permitting exemption is consistent with EPA's Federal minor NSR program requirements. As discussed in more detail below, in accordance with minor NSR program requirements, WDNR will have enforceable procedures to prevent construction or modification of a source if it would violate any SIP requirement or interfere with attainment or maintenance of the NAAQS.

WDNR's regulations require that an air dispersion modeling analysis be performed when any construction permit is issued, as well as for the issuance of certain operation permits. The modeling analysis accounts for emissions from the facility, as well as background concentrations and contributions from surrounding sources, to determine whether any NAAQs are exceeded. If a project is exempt from construction permitting requirements, WDNR still requires that any source that has an increase in emissions of a pollutant go through dispersion modeling during the operation permit issuance process. (A modeling analysis is also required during the operation permit review if any modeling parameter has been negatively changed such that there could be an increase.) Therefore, if any exceedance of the NAAQS resulted from the exempt installation or modification of any source, it would be detected during the operation permit review process. In addition, the emissions from any source or project qualifying for these proposed permit exemptions are still accounted for in the ambient concentration when modeling analyses are performed for other permits.

Even if a source qualifies for an exemption from construction permit requirements, nothing in the proposed revisions relieves any source from the requirement to submit its yearly emissions for inclusion in the emissions inventory if it is required to do so. The Air Emissions Management System requires the owner or operator of a source to calculate actual annual emissions for reporting to the inventory. The data in the emissions inventory can also be used to verify that any exemption based on the proposed 10 tpy exemption is being met. In addition, the proposed SIP revision contains criteria which must be met by applicants in order to qualify for the proposed exemptions.

NR 406.04(1q)(6) requires the facility to submit a claim for the exemption to WDNR. WDNR is also required to respond to the construction permit exemption claim submitted.

NR 406.04(1q)(1) and (5) for construction or modification projects requires the source to have an operation permit or have submitted an operation permit application, as well as having submitted an application for the operation permit revision to permit the change.

Furthermore, the proposed exemption from construction permitting does not exempt the source from control technology reviews. In the supplement to its original submittal dated March 25, 2013, WDNR states that "Control technology reviews will be conducted during the operation permit initial issuance, renewal or revision process as appropriate".

The proposed exemptions under NR 406(1q) and NR 406.04(4)(h) and (i) are not allowed if a requirement under sections 111 or 112 of the Act is triggered. Section 111 contains the New Source Performance Standards, and section 112 contains the National Emissions Standards for Hazardous Air Pollutants.

In addition, Wisconsin Stat. 285.63 contains the criteria for permit approval, and requires that the source will meet all applicable emission limitations, the source will not violate or exacerbate violation of air quality standard or ambient air increment, and the source will not preclude construction or operation of another source. If emissions will exceed the 10 tpy threshold, the facility is required to obtain a construction permit prior to operation above the threshold. Failure to do so is a violation and will result in an appropriate enforcement action.

EPA has determined that WDNR's submitted revisions will comply with Federal permitting program requirements, based on WDNR's proposed emissions thresholds for the exemption, the criteria required for the exemption, the modeling requirements in WDNR's permitting programs, EPA's approval of similar rules, and the requirements of the minor source program.

IV. Do the revisions comply with section 110(l) of the Clean Air Act?

Section 110(l) of the Act states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of a NAAQS or any other applicable requirement of the Act. The revisions to Wisconsin's SIP to exempt certain sources of air pollution from construction permit requirements will not interfere with attainment,

reasonable further progress, or any other applicable requirement of the Act.

As described in section III above, EPA believes that the proposed revisions to Wisconsin's SIP meet Federal requirements and will not interfere with attainment or reasonable further progress. Sources exempt from obtaining a construction permit will continue to be subject to all applicable requirements and compliance demonstration methods per Wisconsin's air pollution regulations. Sources that receive a permit exemption will still be required to undergo a control technology review during operation permit initial issuance, renewal, or revision as appropriate. All sources will be required to conduct monitoring and maintain records sufficient to demonstrate compliance with Wisconsin's regulatory requirements. Additionally, any source required to submit an air emission inventory report of annual actual emissions above thresholds in NR 438, will still be required to submit this report. Furthermore, since an exemption from the requirement to obtain a construction permit does not exempt the facility from meeting the air quality standards and increments, all exempt sources will be included in any analysis of increment consumption at nearby facilities as required in NR 406.07.

V. What action is EPA taking on this submittal?

EPA is proposing to approve revisions to Wisconsin rules NR 406 and 410, submitted by the State on April 23, 2008. The SIP revisions submitted, described in section II, above, are consistent with Federal regulations governing state permitting programs. *See* section III, above. EPA is also soliciting comment on this proposed approval.

VI. Statutory and Executive Order Reviews

Under the 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 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 Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 25, 2013.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2013–11476 Filed 5–14–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2013–0021;EPA–R05–OAR–2013–0022; FRL–9812–3]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Lake and Porter Counties, Indiana, 1997 8-Hour Ozone Maintenance Plan and 1997 Annual Fine Particulate Matter Maintenance Plan Revisions to Approved Motor Vehicle Emissions Budgets

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve Indiana's request to revise the Lake and Porter State Implementation Plans (SIPs) for the 1997 8-hour ozone standard, and the 1997 annual fine particulate matter ($PM_{2.5}$) standard to replace the previously approved motor vehicle emissions budgets (budgets) with budgets developed using EPA's Motor Vehicle Emissions Simulator (MOVES) 2010a emissions model. The Indiana Department of Environmental Management (IDEM) submitted these requests to EPA with submittal letters dated February 1, 2013.

DATES: Comments must be received on or before June 14, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2013–0021 for the 1997 8-hour ozone maintenance plan revision or EPA–RO5–OAR–2013–0022 for the 1997 annual $PM_{2.5}$ maintenance plan revision, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: blakley.pamela@epa.gov.*
3. *Fax:* (312) 692–2450.
4. *Mail:* Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Anthony Maietta, Environmental Protection Specialist, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312)353–8777, *maietta.anthony@epa.gov*.

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because EPA views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all relevant public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: April 30, 2013.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2013–11454 Filed 5–14–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2012–0968 FRL–9812–1]

Approval and Promulgation of Air Quality Implementation Plans; Ohio; Canton-Massillon 1997 8-Hour Ozone Maintenance Plan Revision to Approved Motor Vehicle Emissions Budgets

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the request by Ohio to revise the Canton-Massillon, Ohio, 1997 8-hour ozone maintenance air quality State Implementation Plan (SIP) under the Clean Air Act to replace the previously approved motor vehicle emissions budgets with budgets developed using EPA's Motor Vehicle Emissions Simulator (MOVES) emissions model. Ohio submitted the SIP revision request to EPA on November 26, 2012.

DATES: Comments must be received on or before June 14, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2012–0968, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: blakley.pamela@epa.gov.*
3. *Fax:* (312) 692–2450.
4. *Mail:* Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Anthony Maietta, Environmental Protection Specialist, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8777, *maietta.anthony@epa.gov*.

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, EPA is approving the state's SIP submittal as a direct final rule without prior proposal because EPA views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: April 30, 2013.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2013–11448 Filed 5–14–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 447

[CMS–2367–P]

RIN 0938–AR31

Medicaid Program; State Disproportionate Share Hospital Allotment Reductions

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

ACTION: Proposed rule.

SUMMARY: The statute, as amended by the Affordable Care Act, requires aggregate reductions to state Medicaid Disproportionate Share Hospital (DSH) allotments annually from fiscal year (FY) 2014 through FY 2020. This proposed rule delineates a methodology to implement the annual reductions for FY 2014 and FY 2015. The rule also proposes to add additional DSH reporting requirements for use in implementing the DSH health reform methodology.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on July 12, 2013.

ADDRESSES: In commenting, please refer to file code CMS–2367–P. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the "Submit a comment" instructions.

2. *By regular mail.* You may mail written comments to the following address only: Centers for Medicare & Medicaid Services. Department of Health and Human Services, Attention: CMS–2367–P. P.O. Box 8016, Baltimore, MD 21244–8016.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address only: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–2367–P, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* Alternatively, you may deliver (by hand or courier) your written comments only to the following addresses prior to the close of the comment period:

a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services. Room 445–G, Hubert H. Humphrey Building. 200 Independence Avenue SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard. Baltimore. MD 21244–1850.

If you intend to deliver your comments to the Baltimore address, call telephone number (410) 786–7195 in advance to schedule your arrival with one of our staff members.

Comments erroneously mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Rory Howe, (410) 786–4878 and Richard Strauss, (410) 786–2019.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1–800–743–3951.

I. Executive Summary

A. Purpose

The statute as amended by the Affordable Care Act sets forth aggregate reductions to state Medicaid disproportionate share hospital (DSH) allotments annually from fiscal year (FY) 2014 through FY 2020. This proposed rule delineates the DSH Health Reform Methodology (DHRM) to implement the annual reductions for FY 2014 and FY 2015.

B. Summary of the Major Provisions

The statute as amended by the Affordable Care Act directs the Secretary to implement the annual DSH allotment reductions using a DHRM. This rule proposes to amend part 447 by establishing the DHRM. The DHRM incorporates five factors identified in the statute.

C. Costs and Benefits

Taking these five factors into account for each state, the proposed DHRM would generate a state-specific DSH allotment reduction amount for FY 2014 and FY 2015. The total of all DSH allotment reduction amounts would equal the aggregate annual reduction amounts identified in the statute for FY 2014 and FY 2015. To determine the effective annual DSH allotment for each state, the state-specific annual DSH allotment reduction amount would be applied to the unreduced DSH allotment amount for its respective state.

II. Background

A. Introduction

As a result of the Affordable Care Act, millions of Americans will have access to health insurance coverage through qualified health plans offered through Health Insurance Exchanges (also called marketplaces) or through the Medicaid program. This increase in the number of individuals having access to health insurance is expected to significantly reduce levels of uncompensated care provided by hospitals.

On the assumption that the number of uninsured people will fall sharply beginning in 2014, the statute reforms an existing initiative under the Medicaid program to address the situation of hospitals which serve a disproportionate share of low income patients and therefore may have uncompensated care costs. Under sections 1902(a)(13)(A)(iv) and 1923 of the Social Security Act (the Act), states are required to make payments to qualifying "disproportionate share" hospitals (DSH payments). Section 2551 of the Affordable Care Act amended section 1923(f) of the Act, by adding paragraph (7), to provide for aggregate reductions in federal funding under the Medicaid program for such DSH payments for the 50 states and the District of Columbia. This reform of the DSH payment authority is consistent with the reduction of uncompensated care costs (particularly those associated with the uninsured) expected to result from the expansion of coverage under the statute.

Section 1923(f)(7)(A)(i) of the Act requires that the Secretary of Health and Human Services (the Secretary) implement the aggregate reductions in federal funding for DSH payments through reductions in annual state allotments of federal funding for DSH payments (state DSH allotments), and accompanying reductions in payments to each state. Since 1998, the amount of federal funding for DSH payments for each state has been limited to an annual state DSH allotment in accordance with section 1923(f) of the Act. Section 1923(f)(7) of the Act requires the use of a DHRM to determine the percentage reduction in each annual state DSH allotment to achieve the required aggregate annual reduction in federal DSH funding.

Section 1923(f)(7)(B) establishes the following five factors that must be considered in the development of the DHRM. The methodology must:

- Impose a smaller percentage reduction on low DSH States;
- Impose larger percentage reductions on states that have the lowest

percentages of uninsured individuals during the most recent year for which such data are available;

- Impose larger percentage reductions on states that do not target their DSH payments on hospitals with high volumes of Medicaid inpatients;
- Impose larger percentage reductions on states that do not target their DSH payments on hospitals with high levels of uncompensated care; and
- Take into account the extent to which the DSH allotment for a state was included in the budget neutrality calculation for a coverage expansion approved under section 1115 as of July 31, 2009.

The statutory provision for each factor contains explicit principles, described below, to apply when calculating the annual DSH allotment reduction amounts for each state through the DHRM.

B. Legislative History and Overview

The Omnibus Budget Reconciliation Act of 1981 (OBRA '81) (Pub. L. 97–35, enacted on August 31, 1981) amended section 1902(a)(13) of the Act to require that Medicaid payment rates for hospitals "take into account the situation of hospitals that serve a disproportionate share of low-income patients with special needs." Over the more than 30 years since this requirement was first enacted, the Congress has set forth in section 1923 of the Act payment targets and limits to implement the requirement and to ensure greater oversight, transparency, and targeting of funding to hospitals.

To qualify as a DSH under section 1923(b) of the Act, a hospital must meet two minimum qualifying criteria in section 1923(d) of the Act. The first criterion is that the hospital has at least two obstetricians who have staff privileges at the hospital and who have agreed to provide obstetric services to Medicaid individuals. This criterion does not apply to hospitals in which the inpatients are predominantly individuals under 18 years of age or hospitals that do not offer nonemergency obstetric services to the general public as of the date of the enactment of the Act. The second criterion is that the hospital has a Medicaid inpatient utilization rate of at least 1 percent.

Under section 1923(b) of the Act, a hospital meeting the minimum qualifying criteria in section 1923(d) of the Act is deemed as a DSH if the hospital's Medicaid inpatient utilization rate (MIUR) is at least one standard deviation above the mean MIUR in the state, or if the hospital's low-income utilization rate exceeds 25 percent. States have the option to define disproportionate share hospitals under the state plan using alternative qualifying criteria as long as the qualifying methodology comports with the deeming requirements of section 1923(b) of the Act. Subject to certain federal payment limits, states are afforded flexibility in setting DSH state plan payment methodologies to the extent that these methodologies are consistent with section 1923(c) of the Act. Section 1923(f) of the Act limits federal financial participation (FFP) for total statewide DSH payments made to eligible hospitals in each federal FY to the amount specified in an annual DSH allotment for each state. Although there have been some special rules for calculating DSH allotments for particular years or sets of years, section 1923(f)(3) establishes a general rule that state DSH allotments are calculated on an annual basis in an amount equal to the DSH allotment for the preceding FY increased by the percentage change in the consumer price index for all urban consumers for the previous FY. The annual allotment, after the consumer price index increase, is limited to the greater of the DSH allotment for the previous year or twelve percent of the total amount of Medicaid expenditures under the state plan during the FY. Allotment amounts were originally established in the Medicaid Voluntary Contribution and Provider Specific Tax Amendments of 1991 based on each state's historical DSH spending.

Section 1923(g) of the Act also limits FFP for DSH payments by imposing a hospital-specific limit on DSH payments. FFP is not available for DSH payments that exceed the hospital's uncompensated cost of providing inpatient hospital and outpatient hospital services to Medicaid patients and the uninsured, minus payments received by the hospital by or on the behalf of those patients.

The statute, as amended by the Affordable Care Act, requires annual aggregate reductions in federal DSH funding from FY 2014 through FY 2020. The aggregate annual reduction amounts are:

- $500,000,000 for FY 2014;
- $600,000,000 for FY 2015;
- $600,000,000 for FY 2016;
- $1,800,000,000 for FY 2017;
- $5,000,000,000 for FY 2018;
- $5,600,000,000 for FY 2019; and
- $4,000,000,000 for FY 2020.

To implement these annual reductions, the statute requires that the Secretary reduce annual state DSH allotments, and payments to states, based on a DHRM specified in section 1923(f)(7)(B) of the Act. The proposed DHRM relies on the five statutorily identified factors collectively to determine a state-specific DSH allotment reduction amount to be applied to the allotment that is calculated under section 1923(f) of the Act prior to the reductions under section 1923(f)(7) of the Act.

C. The Impact of a State's Decision To Adopt the New Low-Income Adult Coverage Group

The statute provides significant federal financial support for states to extend coverage to low-income adults under section 1902(a)(10)(A)(i)(VIII) of the Act. For a state that implements the new adult coverage group, the state and its hospitals will receive full Medicaid reimbursement for many previously uninsured patients. So on balance, we believe both hospitals and States stand to benefit greatly from expanding Medicaid.

Implementation of the new coverage group is expected to affect the amount of uncompensated care and the percentage of uninsured individuals within states. Generally, we expect that states that do not implement the new coverage group would have relatively higher rates of uninsured, and more uncompensated care, than states that adopt the new coverage group.

Because states that implement the new coverage group would have lower rates of uninsurance, the reduction in DSH funding may be greater for such states compared to States that do not implement the new coverage group. Consequently, hospitals in states implementing the new coverage group that serve Medicaid patients may experience a deeper reduction in DSH payments than they would if all states were to implement the new coverage group. Given the statutory reductions in the funding for Medicaid DSH in the Affordable Care Act, we intend to account for the different circumstances among states in the formula in future rulemaking.

Currently, we do not have sufficient information on the relative impacts that would result from state decisions to implement the new coverage group, and thus we have determined to propose a DHRM only for the first two years during which the DSH funding reductions are in effect. The data that the reductions are based on for these two years will not reflect differential decisions to implement the new coverage group. Data reflecting the effects of the decision to implement the new coverage group may not be available to consider the impact of such a decision until 2016. Therefore, we intend to continue evaluating potential

implications for accounting for coverage expansion in the DHRM. While we are interested in public comment on this issue, we intend to address this issue more completely in separate rulemaking for DSH allotment reductions for FY 2016 and thereafter.

Accordingly, we are proposing to establish a DHRM that would be in effect for FY 2014 and FY 2015 and we are not including a method to account for differential coverage expansions in Medicaid for FY 2014 and FY 2015.

D. DHRM Data Sources

The statute establishes parameters regarding data and/or suggested data sources for specific factors in the development of the DHRM. We are proposing to utilize for the DHRM, wherever possible, data sources and metrics that are transparent and readily available to CMS, states, and the public, such as: United States Census Bureau data, Medicaid DSH data reported as required by section 1923(j) of the Act, existing state DSH allotments, and Form CMS–64 Medicaid Budget and Expenditure System (MBES) data. We are proposing to utilize the most recent year available for all data sources. For one data source, we intend to collect information directly from state Medicaid agencies outside of this rule.

Specifically, we intend for states to submit the information used to determine which hospitals are deemed disproportionate share under section 1923(b) of the Act. Although we do not currently collect this information because states are required to make DSH payments to hospitals that are DSH eligible, states should have this information readily available. To ensure that all hospitals are properly deemed disproportionate share, states must determine the mean MIUR for hospitals receiving Medicaid payments in the state and the value of one standard deviation above the mean. We are also proposing to rely on data derived from Medicaid DSH audit and reporting data. The data is reported by states as required by section 1923(j) of the Act and the "Medicaid Disproportionate Share Hospital Payments" final rule published on December 19, 2008 (73 FR 77904) (and herein referred to as the 2008 DSH final rule) requiring state reports and audits to ensure the appropriate use of Medicaid DSH payments and compliance with the DSH limit imposed at section 1923(g) of the Act. This is the only comprehensive data source for DSH hospitals that identifies hospital-specific DSH payments, hospital-specific uncompensated care costs, and hospital-specific Medicaid utilization in a manner consistent with Medicaid DSH program requirements.

To date, we have received rich, comprehensive audit and reporting data from each state that makes Medicaid DSH payments. To facilitate the provision of high quality data, we provided explicit parameters in the 2008 DSH final rule and associated policy guidance for calculating and reporting data elements. The 2008 DSH final rule included a transition period in which states and auditors could develop and refine audit and reporting techniques. This transition period covered data reported relating to state plan rate years 2005 through 2010. We recognize that the DSH audit and reporting data during this transition period may vary in its quality and accuracy from state to state and have considered utilizing alternative uncompensated cost data and Medicaid utilization data from sources such as the Medicare Form CMS–2552. The DSH audit and reporting data, however, remains the only comprehensive reported data available that is consistent with Medicaid program requirements. States are already required to report this data by the last day of the federal fiscal year ending three years from the Medicaid State plan rate year under audit as required by the 2008 DSH final rule. However, state submitted audit and reporting data is subject to detailed CMS review and may require significant resources to ensure that it is compiled and prepared for use in the proposed DHRM. This means that the data used for the methodology may not be the most recently submitted data, but instead the most recent data available to us in usable form. We have been actively engaged in reviewing state audits and reports to ensure quality and accuracy. Consistent with ongoing efforts to ensure that the reported data is of the highest quality possible as we move through the transition period, we intend to issue additional detailed guidance to states by the end of calendar year (CY) 2013 that would be applicable to audits and reports due to us by the end of CY 2014.

As required by the statute, the DHRM must impose the larger percentage DSH allotment reductions on the states that have the lowest percentages of uninsured individuals. Although other sources of this information could be considered for this purpose, the statute explicitly refers to the use of data from the Census Bureau for determining the percentage of uninsured for each state. We identified and considered two Census Bureau data sources for this purpose, the American Community Survey (ACS); and the Annual Social and Economic Supplement to the Current Population Survey (CPS). In consultation with the Census Bureau, we are proposing to use the data from the ACS for the following reasons. First, the ACS is the largest household survey in the United States; in that regard, the annual sample size for the ACS is over 30 times larger than that for the CPS—about 3 million for the ACS versus 100 thousand for the CPS. The ACS is conducted continuously each month throughout the year, with the sample for each month being roughly 1/12 of the annual total, while the CPS is conducted in the first four months following the end of the survey year. Finally, although the definition of uninsured and insured status is the same for the ACS and the CPS, the CPS considers the respondents as uninsured if they are uninsured at any time during the year whereas the ACS whether the respondent has coverage at the time of the interview, which are conducted at various times throughout the year. For these reasons, and with the recommendation of the Census Bureau, we determined that the ACS is the appropriate source for establishing the percentage of uninsured for each state for purpose of the proposed DHRM.

In addition to Census Bureau data, we considered using various alternative data with different population parameters and/or different definitions of uninsured individuals. We are also considering adjusting the definition of the uninsured for reductions applicable for FY 2016 and beyond reductions through separate rulemaking.

III. Provisions of the Proposed Rule

A. DHRM Overview

The statute requires aggregate annual reduction amounts for FY 2014 through FY 2020 to be reduced through a DHRM designed by the Secretary consistent with the statutorily-established factors. Taking these factors into account for each state, the proposed DHRM would generate a state-specific DSH allotment reduction amount for FY 2014 and FY 2015 for all 50 states and DC. The total of all DSH allotment reduction amounts would equal the aggregate annual reduction amounts identified in the Affordable Care Act for FY 2014 and FY 2015. To determine the effective annual DSH allotment for each state, the state-specific annual DSH allotment reduction amount would be applied to the unreduced DSH allotment amount for its respective state.

We would calculate an unreduced DSH allotment for each state prior to the beginning of each FY, as we do currently. This unreduced allotment is

determined by calculating the allotment in section 1923(f) of the Act prior to the application of the DHRM under section 1923(f)(7) of the Act. The unreduced allotment would serve as the base amount for each state to which the state-specific DSH allotment reduction amount would apply annually. In this proposed rule, we are utilizing estimated unreduced DSH allotments for FY 2014 for illustrative purposes.

We propose to apply the DHRM to the unreduced DSH allotment amount on an annual basis for FY 2014 and FY 2015. Under the DHRM, we consider the five factors identified in the statute to determine each state's annual state-specific annual DSH allotment reduction amount. Limitations on the availability of data relating to some of the five factors affect the calculation and, therefore, we are seeking comment regarding readily available data sources that may be useful.

The proposed DHRM utilizes available data and a series of interacting calculations that result in the identification of state-specific reduction amounts that, when summed, equal the aggregate DSH allotment reduction amount identified by the statute for each applicable year. The proposed DHRM accomplishes this through the following summarized steps:

1. Separate states into two state groups, non-low DSH states and low-DSH states.

2. Proportionately allocate aggregate DSH funding reductions to each of these two state groups based on each state group's total unreduced DSH allotment amount.

3. Apply a Low DSH State Percentage Reduction Factor to adjust each state group's DSH funding reduction amount while maintaining the combined aggregate DSH funding reduction.

4. Divide each state group's DSH allotment reduction amount among three statutorily identified factors, the Uninsured Percentage Factor (UPF), the High Level of Uncompensated Care Factor (HUF), and the High Volume of Medicaid Inpatients Factor (HMF). We are proposing to assign a 33 and ⅓ percent weight to the UPF and a 66 and ⅔ percent combined weight for the two DSH payment targeting factors (a 33 and ⅓ percent weight for the HUF, and a 33 and ⅓ percent weight for the HMF). This weight assignment provides a higher weight to the DSH payment targeting requirements than the UPF. We considered various alternative weight assignments prior to proposing equal weights. We could have assigned a 50 percent weight to the UPF, and a 50 percent combined weight for the two DSH payment targeting factors (25 percent for the HUF and 25 percent for the HMF). This weight assignment would have provided an equal weight to the requirement at 1923(f)(7)(B)(i)(I) of the Act and the requirement at 1923(f)(7)(B)(i)(II) of the Act. We also could have assigned an even lower weight to the uninsured factor than the payment targeting factors, or lower weights to the payment targeting factors than the uninsured factor. We also could have assigned no weight to the uninsured factor or no weight to the targeting factors. We are seeking public comment and input regarding alternate assignments. We also seek comments on how these weights would impact specific hospital types.

5. For each state group, determine state-specific DSH allotment reduction amounts relating to the Uninsured Percentage Factor.

6. For each state group, determine state-specific DSH allotment reduction amounts relating to the High Level of Uncompensated Care Factor.

7. For each state group, determine state-specific DSH allotment reduction amounts relating to the High Volume of Medicaid Inpatients Factor.

8. Apply a section 1115 Budget Neutrality Factor for each qualifying state.

9. Identify the state-specific DSH allotment reduction amount.

10. Subtract each state's state-specific DSH allotment reduction amount from each state's unreduced DSH allotment.

The manner in which each of the five factors are considered and calculated in the proposed DHRM is described in greater detail below.

The proposed DHRM recognizes the variations in the development of DSH allotments among states and the application of the methodology generates a lesser impact on low DSH states. Further, the proposed DHRM is designed to lessen the impact on states that have targeted DSH payments to hospitals that have high volumes of Medicaid inpatients and to hospitals that have high levels of uncompensated care. Concurrently, the proposed DHRM is designed to incentivize states to target current and future DSH payments to hospitals that have higher volumes of Medicaid inpatients and to hospitals that have higher levels of uncompensated care relative to all DSH eligible hospital in a state. The proposed DHRM also takes into account the extent to which the DSH allotment for a state was included in part or in whole in the budget neutrality calculation for a coverage expansion approved under section 1115 as of July 31, 2009 by excluding from DSH allotment reduction the amount of DSH that qualifying states continue to divert specifically for coverage expansion in the budget neutrality calculation. Any amount of DSH diverted for other purposes under the demonstration would still be subject to reduction by automatically assigning qualifying states an average percentage reduction amount for factors for which the state does not have complete and/or relevant DSH payment data.

B. Factor 1—Low DSH Adjustment Factor (LDF)

The first factor considered in the proposed DHRM is the Low DSH Adjustment Factor identified at section 1923(f)(7)(B)(ii) of the Act, which requires that the DHRM impose a smaller percentage reduction on "low DSH states" that meet the criterion described in section 1923(f)(5)(B) of the Act in 2003. To qualify as a low DSH state, total expenditures under the state plan for DSH payments for FY 2000, as reported to us as of August 31, 2003, had to have been greater than zero but less than 3 percent of the state's total Medicaid state plan expenditures during the FY. Historically, low DSH states (identified in Table 1) have received lower DSH allotments relative to their total Medicaid expenditures than non-low DSH states.

We propose to apply the Low DSH Adjustment Factor (LDF) by imposing a greater proportion of the annual DSH funding reduction on non-low DSH states. The factor is calculated and applied as follows:

1. Separate states into two groups, non-low DSH states and low-DSH states.

2. Divide each state's unreduced preliminary DSH allotment for the year for which the reduction is calculated by estimated Medicaid service expenditures for that same year. Currently, we create a preliminary DSH allotment based on the estimates available in August of the prior year and we issue a final DSH allotment once the federal FY ends.

3. For each state group, calculate the non-weighted mean of the value calculated in step 2 for states in the group.

4. Divide the average calculated in step 3 for the low DSH state group by the average calculated in step 3 for the non-low DSH state group.

5. Convert this number to a percentage. This percentage is the LDF.

6. Multiply the proportionately allocated DSH funding reductions for the low-DSH state group by the LDF percentage to determine the aggregate DSH reduction amount that would be distributed across the low DSH state group.

7. Subtract the aggregate DSH reduction amount determined in step 6 from the proportionately allocated DSH funding reduction for the low-DSH state group, and add the remainder to the aggregate DSH reduction amount that would be distributed across the non-low DSH state group.

We considered using various alternative proportional relationships to establish the LDF, including the proportion of each state group's annual Medicaid DSH expenditures to total Medicaid expenditures.

C. Factor 2—Uninsured Percentage Factor (UPF)

The second factor considered in the proposed DHRM is the Uninsured Percentage Factor (UPF) identified at section 1923(f)(7)(B)(i)(I) of the Act, which requires that the DHRM impose larger percentage DSH allotment reductions on states that have the lowest percentages of uninsured individuals. The statute also requires that the percentage of uninsured individuals is determined on the basis of data from the Census Bureau, audited hospital cost reports, and other information likely to yield accurate data, during the most recent year for which such data are available.

To determine the percentage of uninsured individuals in each state, the proposed DHRM relies on the total population and uninsured population as identified in the most recent "1-year estimates" data available from the ACS conducted by the Census Bureau. The Census Bureau generates ACS "1-year estimates" data annually based on a point-in-time survey of approximately 3 million individuals. For purposes of the proposed DHRM, we would utilize the most recent ACS data available at the time of the calculation of the annual DSH allotment reduction amounts.

The UPF, as applied through the proposed DHRM, has the effect of imposing lower relative DSH allotment reductions on states that have the highest percentage of uninsured individuals. The UPF would mitigate the DSH reduction for states with the highest percentage of uninsured individuals.

The proposed UPF is determined separately for each state group (low DSH and non-low DSH) as follows:

1. *Uninsured Value*—Using Bureau of Census data, calculate each state's uninsured value by dividing the total state population by the uninsured in the state. (This is different than the percentage rate of uninsurance; the rate of uninsurance can be obtained by dividing 100 by this number)

2. *Uninsured Allocation Component*—Determine the relative uninsured value for each state compared to other states in the state group by dividing the value in step one by the state group total of step one values. The result should be a percentage, and the total of the percentages for all states in the state group should total 100 percent.

3. *Allocation Weighting Factor*—To ensure that larger and smaller states are given fair weight in the final UPF, divide each state's preliminary unreduced DSH allotment by the sum of all unreduced preliminary DSH allotments in the respective state group to obtain allocation weighting factor, expressed as a percentage. The sum of all weighting factors should equal 100 percent. Then, take this percentage for each state and multiply it by the state's uninsured allocation component determined in step 2. The result is the allocation weighting factor.

4. For each state group, divide each state's allocation weighting factor by the sum of all allocation weighting factors. The resulting percentage is the UPF.

We would determine the UPF portion of the final aggregate DSH allotment reduction allocation for each state by multiplying the state's UPF by the aggregate DSH allotment reduction allocated to the UPF factor for the respective state group. As with the prior factor, we propose to utilize preliminary DSH allotment estimates to develop the DSH reduction factors.

D. Factor 3—High Volume of Medicaid Inpatients Factor (HMF)

The third factor considered in the proposed DHRM is the High Volume of Medicaid Inpatients Factor (HMF) identified at section 1923(f)(7)(B)(i)(II)(aa) of the Act, which requires that the DHRM impose larger percentage DSH allotment reductions on states that do not target DSH payments to hospitals with the highest volumes of Medicaid inpatients. For purposes of the DHRM, the statute defines hospitals with high volumes of Medicaid patients as those defined in section 1923(b)(1)(A) of the Act. These hospitals must meet minimum qualifying requirements at section 1923(d) of the Act and have an MIUR that is at least one standard deviation above the mean MIUR for hospitals receiving Medicaid payments in the state. Every hospital that meets that definition is deemed a disproportionate share hospital and is statutorily required to receive a DSH payment. The HMF, through the proposed DHRM, provides the mitigation of the DSH reduction amount for states that have been targeting and would in the future target DSH payments to these federally deemed hospitals.

States that have been, and continue to, target a large percentage of their DSH payments to hospitals that are federally deemed as a DSH based on their MIUR would receive the lowest reduction amounts relative to their total spending. States that target the largest amounts of DSH payments to hospitals that are not federally deemed based on MIUR would receive larger reduction amounts under this factor. The current DSH allotment amounts are unrelated to the amounts of MIUR-deemed hospitals and their DSH-eligible uncompensated care costs. By basing the HMF reduction on the amounts that states do not target to hospitals with high volumes of Medicaid inpatients, this proposed methodology incentivizes states to target DSH payments to such hospitals.

To ensure that all deemed disproportionate share hospitals receive a required DSH payments, states are already required to determine the mean MIUR for hospitals receiving Medicaid payments in the state and the value of one standard deviation above the mean. This rule proposes to rely on MIUR information for use in the DHRM that CMS intends to collect from states on an annual basis outside of this rule. When a state does not timely submit this separately required MIUR information, for purposes of this factor, CMS will assume that the state has the highest value of one standard deviation above the mean reported among all other states.

The calculation of the HMF would rely on extant data that should be readily available to states. The following data elements are used in the HMF calculation: the preliminary unreduced DSH allotment for each state, the DSH hospital payment amount reported for each DSH in accordance with § 447.299(c)(17), the MIUR for each DSH reported in accordance with § 447.299(c)(3), and the value of one standard deviation above the mean MIUR for hospitals receiving Medicaid payments in the state reported separately.

The proposed HMF is a state-specific percentage that is calculated separately for each state group (low DSH and non-low DSH) as follows:

1. For each state, classify each disproportionate share hospital that has an MIUR at least one standard deviation above the mean MIUR for hospitals receiving Medicaid payments in the state as a High Medicaid Volume hospital.

2. For each state, determine the amount of DSH payments to non-High Medicaid Volume DSH hospitals. This

data element should come from the most recently submitted and accepted DSH audit template.

3. For each state, determine a percentage by dividing the state's total DSH payments made to non-High Medicaid Volume hospitals by the aggregate amount of DSH payments made to non-High Medicaid Volume hospitals for the entire state group.

4. The result of step 3 is the HMF.

We would determine each state's HMF reduction amount by applying the HMF percentage to the aggregate reduction amount allocated to this factor for each state group.

As a result of this methodology, there are a number of interactions that may occur for states among DSH payment methodologies, DSH allotments, and DSH allotment reductions. Most of these scenarios work in concert with this factor's established reduction relationship. For example, if a state paid out its entire DSH allotment to hospitals with high volumes of Medicaid inpatients, it would receive no reduction associated with this factor because all DSH payments were made only to hospitals that qualify as high volume. The results of this scenario would be consistent with the methodology because the state is incentivized to target DSH payments to high Medicaid volume hospitals.

Another example is a state that makes DSH payments up to the hospital-specific DSH limit to all hospitals with high Medicaid volume but also uses its remaining allotment to make DSH payments to hospitals that do not qualify as high volume. In this example, the state would receive a reduction under this factor based on the amount of DSH payments it made to non-high Medicaid volume hospitals. Though the state targeted DSH payments to hospitals with high Medicaid volume, the existing size of its DSH allotment permitted it to make DSH payments to hospitals that did not meet the statutory definition of high Medicaid volume. In that situation, this allotment reduction would effectively reduce a state's existing DSH allotment to the extent that the allotment exceeded the maximum amount that the state could pay to hospitals that are high Medicaid volume. The resulting HMF reduction would be greater for states with DSH allotments large enough to pay significant amounts to non-high Medicaid volume hospitals. This ensures that states target DSH payments to high Medicaid volume hospitals and distribute the reductions in such a way as to promote the ability of all states to provide DSH funds to high Medicaid volume hospitals.

We would continue to analyze the proposed DHRM and comments to the proposed rule to ensure that the DHRM is effective in tying the level of DSH reductions to the targeting of DSH payments to high Medicaid volume hospitals.

E. Factor 4—High Level of Uncompensated Care Factor (HUF)

The fourth factor considered in the DHRM is the HUF identified at section 1923(f)(7)(B)(i)(II)(bb) of the Act, which requires that the DHRM impose larger percentage DSH allotment reductions on states that do not target DSH payments on hospitals with high levels of uncompensated care. We are proposing to rely on the existing statutory definition of uncompensated care cost used in determining the hospital-specific limit on FFP for DSH payments.

Each state must develop a methodology to compute this hospital-specific limit for each DSH hospital in the state. As defined in section 1923(g)(1) of the Act, the state's methodology must calculate for each hospital, for each FY, the difference between the costs incurred by that hospital for furnishing inpatient hospital and outpatient hospital services during the applicable state FY to Medicaid individuals and individuals who have no health insurance or other source of third party coverage for the inpatient hospital and outpatient hospital services they receive, less all applicable revenues for these hospital services. This difference, if any, between incurred inpatient hospital and outpatient hospital costs and associated revenues is considered a hospital's uncompensated care cost limit, or hospital-specific DSH limit.

For purposes of this rule, we are proposing to rely on this definition of uncompensated cost for the calculation of the HUF, as reported by states on the most recent available DSH audit and reporting data. For the proposed DHRM, hospitals with high levels of uncompensated care are defined based on a comparison with other Medicaid DSH hospitals in their state. Any hospital that exceeds the mean ratio of uncompensated care costs to total Medicaid and uninsured inpatient and outpatient hospital service costs within its state is considered a hospital with a high level of uncompensated care. This data is consistent with existing Medicaid DSH program definition of uncompensated care and is readily available to states and us.

The following data elements are used in the HUF calculation:

- The preliminary unreduced DSH allotment for each state;
- DSH hospital payment amounts reported for each DSH in accordance with § 447.299(c)(17);
- Uncompensated care cost amounts reported for each DSH in accordance with § 447.299(c)(16);
- Total Medicaid cost amounts reported for each DSH in accordance with § 447.299(c)(10); and
- Total uninsured cost amounts reported for each DSH in accordance with § 447.299(c)(14).

The statute also requires that uncompensated care used in this factor of the DHRM exclude bad debt. The proposed rule relies on the uncompensated care cost data derived from Medicaid DSH audit and reporting required by section 1923(f) of the Act and implementing regulations. This uncompensated care data excludes bad debt, including unpaid co-pays and deductibles, associated with individuals with a source of third party coverage for the service received during the year.

The HUF is a state-specific percentage that is calculated separately for each state group (low DSH and non-low DSH) as follows:

1. Determine each disproportionate share hospital's Uncompensated Care Level by dividing its uncompensated care cost by the sum of its total Medicaid cost and its total uninsured cost. This data element would come from the most recently submitted and accepted DSH audit template.

2. For each state, calculate the weighted mean Uncompensated Care Level.

3. Identify all hospitals that meet or exceed the mean Uncompensated Care Level as High Uncompensated Care Level hospitals. We also considered identifying a metric higher than the mean for purposes of identifying hospitals as High Uncompensated Care Level hospitals and are soliciting comments on this alternative.

4. For each state, determine the amount of DSH payments to non-High Uncompensated Care Level hospitals.

5. For each state, determine a percentage by dividing the state's total DSH payments made to non-High Uncompensated Care Level hospitals by the aggregate amount of DSH payments made to non-High Uncompensated Care Level hospitals for the entire state group. The result is the HUF.

We would determine each state's HUF reduction amount by applying the HUF percentage to the aggregate reduction amount allocated to this factor for each state group. Similar to the HMF, this methodology may produce a number of interactions that could occur for states among DSH payment methodologies, DSH allotments, and DSH allotment

reductions. Most of these interactions work in concert with the intent of this factor's established reduction relationship. However, we have identified some potential scenarios where the interactions may be inconsistent with the methodology. For example, it is possible that a hospital may not be considered to have a high level of uncompensated care even though it provides a higher percentage of services to Medicaid and uninsured individuals and has a greater total qualifying uncompensated care costs than another hospital that does qualify as having a high level of uncompensated care. Specifically, Hospital A has $20 million in total hospital costs, $11 million in DSH-eligible Medicaid and uninsured costs, and $5 million in uncompensated care cost. Hospital B has $50 million in total hospital costs, $2 million in DSH-eligible Medicaid and uninsured costs, and $1 million in uncompensated care cost. Assuming the weighted mean uncompensated care cost level in the state is 50 percent, Hospital B would be considered to have high level of uncompensated care and Hospital A would not. Given that Hospital A has 5 times the total uncompensated care of Hospital B and serves a much higher percentage of Medicaid and uninsured individuals, the results of this scenario are counter to the intent of the methodology.

This scenario exists because the proposed formula does not take into account total hospital costs due to extant data limitations. To address this concern, we are proposing to modify DSH reporting requirements to collect total hospital cost from Medicare cost report data for all DSH hospitals. Through separately issued rulemaking for FY 2016 and thereafter, we intend to substitute total cost for the denominator in step one of the HUF calculation above. Since total cost is unavailable at this time, we are seeking comment on alternatives to the use of total uncompensated care cost as the denominator to alleviate this data issue.

We would continue to analyze the proposed DHRM and comments to the proposed rule to ensure that the DHRM is effective in tying the level of DSH reductions to the targeting of DSH payments to hospitals with high levels of uncompensated care. We believe that the proposed methodology, in using the mean uncompensated care cost level as the measure to identify hospitals with high levels of uncompensated care, captures the best balance in tying the level of DSH reductions to the targeting of DSH payments to such high level hospitals. Understanding potential data limitations and that the proposed methodology does not precisely distinguish how states direct DSH payments among hospitals that are identified as at or above the mean uncompensated care, we solicit comments on alternative methodologies regarding state targeting of DSH payments to hospitals with high levels of uncompensated care.

F. Factor 5—Section 1115 Budget Neutrality Factor (BNF)

The statute requires that we take into account the extent to which a state's DSH allotment was included in the budget neutrality calculation for a coverage expansion that was approved under section 1115 as of July 31, 2009. Prior to the implementation of this proposed rule, these states possess full annual DSH allotments as calculated under section 1923(f) of the Act. Under an approved section 1115 demonstration, however, the states may have limited authority to make DSH payments under section 1923 of the Act because all or a portion of their DSH allotment was included in the budget neutrality calculation for a coverage expansion under an approved section 1115 demonstration or to fund uncompensated care pools and/or safety net care pools. For applicable states, DSH payments under section 1923 of the Act are limited to the DSH allotment calculated under section 1923(f) of the Act less the allotment amount included in the budget neutrality calculation. If a state's entire DSH allotment is included in the budget neutrality calculation, it would have no available DSH funds with which to make DSH payments under section 1923 of the Act for the period of the demonstration.

Consistent with the statute, for states that include DSH allotment in budget neutrality calculations for coverage expansion under an approved section 1115 demonstration as of July 31, 2009, we propose to exclude from DSH allotment reduction, for the HMF and the HUF factors, the amount of DSH allotment that each state currently continues to divert specifically for coverage expansion in the budget neutrality calculation. Amounts of DSH allotment included in budget neutrality calculations for non-coverage expansion purposes under approved demonstrations would still be subject to reduction. Uncompensated care pools and safety net care pools are considered non-coverage expansion purposes. For section 1115 demonstrations not approved as of July 31, 2009, any DSH allotment amounts included in budget neutrality calculations, whether for coverage expansion or otherwise, under a later approval would also be subject to reduction.

We are proposing to determine for each reduction year if any portion of a state's DSH allotment qualifies for consideration under this factor. To qualify annually, CMS and the state would have to have included its DSH allotment in the budget neutrality calculation for a coverage expansion that was approved under section 1115 as of July 31, 2009, and would have to continue to do so at the time that reduction amounts are calculated for each FY.

The proposed DHRM would take into account the extent to which the DSH allotment for a state was included in the budget neutrality calculation approved under section 1115 as of July 31, 2009 by excluding amounts diverted specifically for a coverage expansion and automatically assigning qualifying states an average reduction amount (based on the state group) for any DSH allotment diverted for non-coverage expansion purposes and any amounts diverted for coverage expansion if the section 1115 demonstration was or is approved after July 31, 2009. DSH allotment reductions relating to two DHRM factors (the HUF and the HMF) are determined based on how states target DSH payments to certain hospitals. Since states qualifying under the budget neutrality provision would have limited or no relevant data for these two factors, we would be unable to evaluate how they spent the portion of their DSH allotment that was diverted for non-coverage expansion. Accordingly, we are proposing to maintain the HUF and HMF formula for DSH payments for which qualifying states would have available data. Because we would not have DSH payment data for DSH allotment amounts diverted for non-coverage expansion, we are proposing to assign average HUF and HMF reduction percentages for the portion of their DSH allotment that they were unable to use to target payments to disproportionate share hospitals. Instead of assigning the average percentage reduction to non-qualifying amounts, we considered using various alternative percentages. Additionally, for qualifying allotment amounts diverted specifically for coverage expansion, we considered applying the BNF reduction exclusion to the UPF in addition to the HMF and HUF. We are seeking comment regarding the use of different percentages for the reductions to non-qualifying diversion amounts and regarding alternative BNF methodologies that may prove preferable alternatives.

We recognize that the goal of the expanded coverage and/or payment of uncompensated care is directly addressed by the statute. The goal is addressed by statute by offering states other, non-DSH funds for such expansions, thus limiting the need for the diverted DSH under demonstrations. Accordingly, the group of states affected by this factor today may change at a later time, depending on how their coverage continues to be financed. In addition, based on changes in the health coverage landscape, we will reevaluate this policy in future rulemaking.

G. Illustration of DSH Health Reform Methodology (DHRM)

Table 1 and the values contained therein are provided only for purposes of illustrating the application of the DHRM and the associated DSH reduction factors described in this proposed rule to determine each states' DSH allotment reduction for FY 2014. Note that these values do not represent the final DSH reduction amounts for FY 2014.

BILLING CODE 4120–01–P

TABLE 1:

*FOR ILLUSTRATION PURPOSES ONLY - FY 2014 DSH HEALTH REFORM METHODOLOGY					
		ILLUSTRATIVE DSH Reduction Factor Weighting Allocation*			
	Total Reduction:	Uninsured Factor UPF	Hi Volume Factor HMF	High Level Factor HUF	TOTAL
		33.3%	33.3%	33.3%	100.0%
	Total Reg. DSH Reduction:	$164,588,883	$164,588,883	$164,588,883	$493,766,649
LOW DSH Adj. Factor	Total Low DSH Reduction:	$2,077,784	$2,077,784	$2,077,784	$6,233,351
27.97%	TOTAL:	$166,666,667	$166,666,667	$166,666,667	$500,000,000

A	B	C	D	E	F	G	H
STATE	Unreduced FY 2014 DSH Allotment (Estimate)*	Reduction Based on UPF Uninsured Factor*	Reduction Based on HMF High Volume Factor*	Reduction Based On HUF High Level Factor*	Total Reduction*	Reduction Amount As Percentage of Unreduced DSH Allotment*	FY 2014 Reduced Allotment*
		Col J, UPF WS	Col O , HMF WS	Col O, HUC WS	C + D + E	F/B	B - F
Alabama	$327,306,706	$4,450,693	$6,450,832	$5,965,703	$16,867,229	5.15%	$310,439,477
Arkansas	$107,771,720	$1,225,578	$2,320,621	$4,144,131	$7,690,330	7.14%	$100,081,389
California	$1,166,861,709	$12,496,019	$19,339,288	$787,771	$32,623,078	2.80%	$1,134,238,632
Colorado	$98,458,114	$1,227,835	$953,242	$3,262,103	$5,443,181	5.53%	$93,014,933
Connecticut	$212,882,410	$4,646,855	$4,209,148	$4,474,769	$13,330,772	6.26%	$199,551,638
District of Columbia /1	$65,195,237	$1,703,076	$463,119	$844,089	$3,010,283	4.62%	$62,184,954
Florida	$212,882,410	$1,987,539	$2,887,967	$5,215,949	$10,091,455	4.74%	$202,790,954
Georgia	$286,060,738	$2,882,526	$3,130,957	$5,060,927	$11,074,410	3.87%	$274,986,328
Illinois	$228,848,590	$3,298,528	$3,645,082	$3,899,617	$10,843,227	4.74%	$218,005,363
Indiana	$227,518,076	$3,045,530	$3,282,746	$1,280,446	$7,608,722	3.34%	$219,909,354
Kansas	$43,906,997	$627,702	$922,471	$683,318	$2,233,492	5.09%	$41,673,505
Kentucky	$154,339,747	$2,009,128	$2,429,559	$2,068,748	$6,507,436	4.22%	$147,832,311
Louisiana	$731,960,000	$8,157,359	$12,281,637	$4,906,454	$25,345,450	3.46%	$706,614,550

*FOR ILLUSTRATION PURPOSES ONLY - FY 2014 DSH HEALTH REFORM METHODOLOGY

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		Col J, UPF WS	Col O , HMF WS	Col O, HUC WS	C + D + E	F/B	B - F
Maine /1	$111,763,265	$2,189,425	$1,324,174	$2,413,463	$5,927,063	5.30%	$105,836,203
Maryland	$81,161,419	$1,430,089	$1,639,479	$1,726,902	$4,796,470	5.91%	$76,364,948
Massachusetts /1	$324,645,675	$14,612,915	$1,031,865	$1,076,550	$16,721,329	5.15%	$307,924,346
Michigan	$282,069,193	$4,528,369	$3,256,081	$5,661,017	$13,445,466	4.77%	$268,623,727
Mississippi	$162,322,837	$1,771,408	$1,928,694	$715,775	$4,415,876	2.72%	$157,906,961
Missouri	$504,265,209	$7,606,111	$7,179,807	$11,117,502	$25,903,421	5.14%	$478,361,788
Nevada	$49,229,057	$432,077	$226,353	$258,039	$916,469	1.86%	$48,312,588
New Hampshire	$170,410,795	$3,039,010	$2,714,290	$2,903,827	$8,657,127	5.08%	$161,753,668
New Jersey	$685,215,257	$10,273,222	$9,989,871	$9,086,087	$29,349,180	4.28%	$655,866,077
New York	$1,709,711,855	$28,517,869	$17,330,775	$19,682,882	$65,531,526	3.83%	$1,644,180,330
North Carolina	$314,001,555	$3,717,078	$6,628,232	$3,952,052	$14,297,361	4.55%	$299,704,194
Ohio	$432,417,395	$6,970,234	$6,496,637	$9,942,522	$23,409,393	5.41%	$409,008,002
Pennsylvania	$597,401,262	$11,667,972	$9,874,704	$12,323,972	$33,866,647	5.67%	$563,534,615
Rhode Island	$69,186,783	$1,128,516	$1,332,369	$1,002,242	$3,463,128	5.01%	$65,723,655
South Carolina	$348,594,946	$3,947,977	$5,769,094	$3,995,248	$13,712,319	3.93%	$334,882,628

TABLE 1:

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	Total Reduction:	Uninsured Factor UPF	Hi Volume Factor HMF	High Level Factor HUF	TOTAL
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		Col J, UPF WS	Col O , HMF WS	Col O, HUC WS	C + D + E	F/B	B - F
Alabama	$327,306,706	$4,450,693	$6,450,832	$5,965,703	$16,867,229	5.15%	$310,439,477
Arkansas	$107,771,720	$1,225,578	$2,320,621	$4,144,131	$7,690,330	7.14%	$100,081,389
California	$1,166,861,709	$12,496,019	$19,339,288	$787,771	$32,623,078	2.80%	$1,134,238,632
Colorado	$98,458,114	$1,227,835	$953,242	$3,262,103	$5,443,181	5.53%	$93,014,933
Connecticut	$212,882,410	$4,646,855	$4,209,148	$4,474,769	$13,330,772	6.26%	$199,551,638
District of Columbia /1	$65,195,237	$1,703,076	$463,119	$844,089	$3,010,283	4.62%	$62,184,954
Florida	$212,882,410	$1,987,539	$2,887,967	$5,215,949	$10,091,455	4.74%	$202,790,954
Georgia	$286,060,738	$2,882,526	$3,130,957	$5,060,927	$11,074,410	3.87%	$274,986,328
Illinois	$228,848,590	$3,298,528	$3,645,082	$3,899,617	$10,843,227	4.74%	$218,005,363
Indiana	$227,518,076	$3,045,530	$3,282,746	$1,280,446	$7,608,722	3.34%	$219,909,354
Kansas	$43,906,997	$627,702	$922,471	$683,318	$2,233,492	5.09%	$41,673,505
Kentucky	$154,339,747	$2,009,128	$2,429,559	$2,068,748	$6,507,436	4.22%	$147,832,311
Louisiana	$731,960,000	$8,157,359	$12,281,637	$4,906,454	$25,345,450	3.46%	$706,614,550

*FOR ILLUSTRATION PURPOSES ONLY - FY 2014 DSH HEALTH REFORM METHODOLOGY

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A	B	C	D	E	F	G	H
STATE	Unreduced FY 2014 DSH Allotment (Estimate)*	Reduction Based on UPF Uninsured Factor* Col J, UPF WS	Reduction Based on HMF High Volume Factor* Col O , HMF WS	Reduction Based On HUF High Level Factor* Col O, HUC WS	Total Reduction* C + D + E	Reduction Amount As Percentage of Unreduced DSH Allotment* F/B	FY 2014 Reduced Allotment* B - F
Maine /1	$111,763,265	$2,189,425	$1,324,174	$2,413,463	$5,927,063	5.30%	$105,836,203
Maryland	$81,161,419	$1,430,089	$1,639,479	$1,726,902	$4,796,470	5.91%	$76,364,948
Massachusetts /1	$324,645,675	$14,612,915	$1,031,865	$1,076,550	$16,721,329	5.15%	$307,924,346
Michigan	$282,069,193	$4,528,369	$3,256,081	$5,661,017	$13,445,466	4.77%	$268,623,727
Mississippi	$162,322,837	$1,771,408	$1,928,694	$715,775	$4,415,876	2.72%	$157,906,961
Missouri	$504,265,209	$7,606,111	$7,179,807	$11,117,502	$25,903,421	5.14%	$478,361,788
Nevada	$49,229,057	$432,077	$226,353	$258,039	$916,469	1.86%	$48,312,588
New Hampshire	$170,410,795	$3,039,010	$2,714,290	$2,903,827	$8,657,127	5.08%	$161,753,668
New Jersey	$685,215,257	$10,273,222	$9,989,871	$9,086,087	$29,349,180	4.28%	$655,866,077
New York	$1,709,711,855	$28,517,869	$17,330,775	$19,682,882	$65,531,526	3 83%	$1,644,180,330
North Carolina	$314,001,555	$3,717,078	$6,628,232	$3,952,052	$14,297,361	4.55%	$299,704,194
Ohio	$432,417,395	$6,970,234	$6,496,637	$9,942,522	$23,409,393	5.41%	$409,008,002
Pennsylvania	$597,401,262	$11,667,972	$9,874,704	$12,323,972	$33,866,647	5.67%	$563,534,615
Rhode Island	$69,186,783	$1,128,516	$1,332,369	$1,002,242	$3,463,128	5.01%	$65,723,655
South Carolina	$348,594,946	$3,947,977	$5,769,094	$3,995,248	$13,712,319	3.93%	$334,882,628

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		Col J, UPF WS	Col O , HMF WS	Col O, HUC WS	C + D + E	F/B	B - F
Tennessee	$54,007,000	$746,901	$860,219	$920,288	$2,527,408	4.68%	$51,479,592
Texas	$1,017,844,022	$8,522,124	$18,255,733	$29,359,012	$56,136,869	5.52%	$961,707,154
Vermont	$23,949,271	$590,875	$434,558	$276,383	$1,301,816	5.44%	$22,647,455
Virginia	$93,250,559	$1,416,841	$1,718,425	$1,230,356	$4,365,622	4.68%	$88,884,936
Washington	$196,916,230	$2,744,350	$3,136,466	$3,355,484	$9,236,300	4.69%	$187,679,929
West Virginia	$71,847,813	$977,152	$1,144,386	$995,254	$3,116,792	4.34%	$68,731,021
Total Regular DSH States	**$11,164,203,854**	**$164,588,883**	**$164,588,883**	**$164,588,883**	**$493,766,649**	**4.42%**	**$10,670,437,205**
LOW DSH STATES							
Alaska	$21,681,747	$51,937	$173,996	$87,475	$313,408	1.45%	$21,368,340
Arizona	$45,916,375	$129,368	$129,235	$42,155	$300,758	0.66%	$45,615,618
Delaware	$9,636,331	$47,282	$0	$0	$47,282	0.49%	$9,589,049
Hawaii	$10,393,800	$62,676	$70,765	$104,311	$237,752	2.29%	$10,156,048
Idaho	$17,496,274	$46,880	$111,960	$50,217	$209,057	1.19%	$17,287,217

*FOR ILLUSTRATION PURPOSES ONLY - FY 2014 DSH HEALTH REFORM METHODOLOGY

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STATE	Unreduced FY 2014 DSH Allotment (Estimate)*	Reduction Based on UPF Uninsured Factor*	Reduction Based on HMF High Volume Factor*	Reduction Based On HUF High Level Factor*	Total Reduction*	Reduction Amount As Percentage of Unreduced DSH Allotment*	FY 2014 Reduced Allotment*
		Col J, UPF WS	Col O , HMF WS	Col O, HUC WS	C + D + E	F/B	B - F
Iowa	$41,917,760	$214,084	$75,590	$115,863	$405,536	0.97%	$41,512,224
Minnesota	$79,499,739	$416,944	$257,348	$623,061	$1,297,353	1.63%	$78,202,386
Montana	$12,081,903	$33,172	$68,731	$89,562	$191,465	1.58%	$11,890,437
Nebraska	$30,120,968	$124,314	$238,785	$249,312	$612,411	2.03%	$29,508,557
New Mexico	$21,681,747	$52,589	$168,797	$52,617	$274,003	1.26%	$21,407,744
North Dakota	$10,167,243	$49,497	$60,321	$13,300	$123,117	1.21%	$10,044,126
Oklahoma	$38,545,326	$97,193	$110,492	$391,760	$599,445	1.56%	$37,945,882
Oregon	$48,181,658	$133,619	$381,129	$9,220	$523,968	1.09%	$47,657,690
South Dakota	$11,756,055	$45,126	$70,228	$36,545	$151,899	1.29%	$11,604,156
Utah	$20,881,618	$64,735	$159,292	$211,938	$435,965	2.09%	$20,445,653
Wisconsin /1	$100,621,875	$507,599	$0	$0	$507,599	0.50%	$100,114,275
Wyoming	$240,907	$768	$1,115	$448	$2,331	0.97%	$238,576
Total Low DSH States	**$520,821,329**	**$2,077,784**	**$2,077,784**	**$2,077,784**	**$6,233,351**	**1.20%**	**$514,587,978**

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Vermont	$23,949,271	$590,875	$434,558	$276,383	$1,301,816	5.44%	$22,647,455
Virginia	$93,250,559	$1,416,841	$1,718,425	$1,230,356	$4,365,622	4.68%	$88,884,936
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Total Regular DSH States	**$11,164,203,854**	**$164,588,883**	**$164,588,883**	**$164,588,883**	**$493,766,649**	**4.42%**	**$10,670,437,205**
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Delaware	$9,636,331	$47,282	$0	$0	$47,282	0.49%	$9,589,049
Hawaii	$10,393,800	$62,676	$70,765	$104,311	$237,752	2.29%	$10,156,048
Idaho	$17,496,274	$46,880	$111,960	$50,217	$209,057	1.19%	$17,287,217

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STATE	Unreduced FY 2014 DSH Allotment (Estimate)*	Reduction Based on UPF Uninsured Factor* Col J, UPF WS	Reduction Based on HMF High Volume Factor* Col O , HMF WS	Reduction Based On HUF High Level Factor* Col O, HUC WS	Total Reduction* C + D + E	Reduction Amount As Percentage of Unreduced DSH Allotment* F/B	FY 2014 Reduced Allotment* B - F
Iowa	$41,917,760	$214,084	$75,590	$115,863	$405,536	0.97%	$41,512,224
Minnesota	$79,499,739	$416,944	$257,348	$623,061	$1,297,353	1.63%	$78,202,386
Montana	$12,081,903	$33,172	$68,731	$89,562	$191,465	1.58%	$11,890,437
Nebraska	$30,120,968	$124,314	$238,785	$249,312	$612,411	2.03%	$29,508,557
New Mexico	$21,681,747	$52,589	$168,797	$52,617	$274,003	1.26%	$21,407,744
North Dakota	$10,167,243	$49,497	$60,321	$13,300	$123,117	1.21%	$10,044,126
Oklahoma	$38,545,326	$97,193	$110,492	$391,760	$599,445	1.56%	$37,945,882
Oregon	$48,181,658	$133,619	$381,129	$9,220	$523,968	1.09%	$47,657,690
South Dakota	$11,756,055	$45,126	$70,228	$36,545	$151,899	1.29%	$11,604,156
Utah	$20,881,618	$64,735	$159,292	$211,938	$435,965	2.09%	$20,445,653
Wisconsin /1	$100,621,875	$507,599	$0	$0	$507,599	0.50%	$100,114,275
Wyoming	$240,907	$768	$1,115	$448	$2,331	0.97%	$238,576
Total Low DSH States	**$520,821,329**	**$2,077,784**	**$2,077,784**	**$2,077,784**	**$6,233,351**	**1.20%**	**$514,587,978**

*FOR ILLUSTRATION PURPOSES ONLY - FY 2014 DSH HEALTH REFORM METHODOLOGY					
		ILLUSTRATIVE DSH Reduction Factor Weighting Allocation*			
	Total Reduction:	Uninsured Factor UPF	Hi Volume Factor HMF	High Level Factor HUF	TOTAL
		33.3%	33.3%	33.3%	100.0%
	Total Reg. DSH Reduction:	$164,588,883	$164,588,883	$164,588,883	$493,766,649
LOW DSH Adj. Factor	Total Low DSH Reduction:	$2,077,784	$2,077,784	$2,077,784	$6,233,351
27.97%	TOTAL:	$166,666,667	$166,666,667	$166,666,667	$500,000,000

A	B	C	D	E	F	G	H
STATE	Unreduced FY 2014 DSH Allotment (Estimate)*	Reduction Based on UPF Uninsured Factor*	Reduction Based on HMF High Volume Factor*	Reduction Based On HUF High Level Factor*	Total Reduction*	Reduction Amount As Percentage of Unreduced DSH Allotment*	FY 2014 Reduced Allotment*
		Col J, UPF WS	Col O , HMF WS	Col O, HUC WS	C + D + E	F/B	B - F
National Total	$11,685,025,183	$166,666,667	$166,666,667	$166,666,667	$500,000,000	4.28%	$11,185,025,183

Notes:
*All of the values on this chart are only for purposes of illustrating the DSH Health Reform Methodology (DHRM)
/1 Potential DSH Diversion State

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IV. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, we are required to provide 60-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.

To derive average costs, we used data from the U.S. Bureau of Labor Statistics for all salary estimates. The salary estimates include the cost of fringe benefits, based on the December 2012 Employer Costs for Employee Compensation report by the Bureau.

We are soliciting public comment on each of the section 3506(c)(2)(A)-required issues for the following information collection requirements (ICRs):

ICRs Regarding Reporting Requirements (§ 447.299)

Beginning with each state's Medicaid state plan rate year 2005, for each Medicaid state plan rate year, the state must submit to CMS, at the same time as it submits the completed DSH audit required under § 455.204, the following information for each DSH hospital to which the state made a DSH payment in order to permit verification of the appropriateness of such payments.

The ongoing burden associated with the requirements under § 447.299 is the time and effort it would take each of the 50 state Medicaid Programs and the District of Columbia to complete the annual Medicaid DSH reporting requirements. Based on the information proposed in this rule, we estimate that it would take an additional 4 hours per state (from 38 approved hr to 42 total hr) to complete the DSH reporting spreadsheets. Consequently, we also estimate an additional 204 (4 × 51) annual hours for all states and the District of Columbia (or 2,142 total hr) and an additional cost of $10,404 (or $85,434 total).

In deriving these figures, we used the following hourly labor rates and estimated the time to complete each task: $51.00/hr and an additional 102 hr (1,071 total hours) for management and professional staff to review and prepare reports, and $28.77/hr and an additional 102 hr (1,071 total hours) for office staff to prepare the reports.

The preceding requirements and burden estimates will be added to the existing PRA-related requirements and burden estimates that have been approved by OMB under OCN 0938–0746 (CMS–R–266). The revised total burden estimates amount to: 51 annual respondents, 51 annual responses, and 2,142 annual hours.

Submission of PRA-Related Comments

We have submitted a copy of this proposed rule to OMB for its review of the rule's information collection and recordkeeping requirements. These requirements are not effective until they have been approved by the OMB.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site at *http://www.cms.hhs.gov/Paperwork@cms.hhs.gov,* or call the Reports Clearance Office at 410–786–1326.

We invite public comments on these potential information collection requirements. If you comment on these information collection and recordkeeping requirements, please do either of the following:

1. Submit your comments electronically as specified in the **ADDRESSES** section of this proposed rule; or

2. Submit your comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: CMS Desk Officer, (CMS–2367–P) Fax: (202) 395–6974; or Email: *OIRA_submission@omb.eop.gov.*

V. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

VI. Regulatory Impact Statement

A. Statement of Need

The Affordable Care Act amended the Act by requiring aggregate reductions to state Medicaid DSH allotments annually from FY 2014 through FY 2020. This proposed rule delineates the DHRM to implement the annual reductions for FY 2014 and FY 2015.

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 (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the 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). This rule has been designated an "economically significant" rule measured by the $100 million threshold, under section 3(f)(1) of Executive Order 12866. Accordingly, we have prepared a Regulatory Impact Analysis (RIA) that, to the best of our ability, presents the costs and benefits of the rulemaking. In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

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 2013, that threshold is approximately $141 million. This final rule would not mandate any requirements for State, local, or tribal governments, nor would it affect private sector costs.

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. Since this rule does not impose any costs on State or local governments, the requirements of Executive Order 13132 are not applicable.

The RFA requires agencies to analyze options for regulatory relief of small entities. For purposes of the RFA, small

entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $7.0 million to $34.5 million in any 1 year. Individuals and states are not included in the definition of a small entity.

We are not preparing an analysis for the RFA because we have determined, and the Secretary certifies, that this proposed rule would not have a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the 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 603 of the RFA. For 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 for Medicare payment regulations and has fewer than 100 beds. We are not preparing an analysis for section 1102(b) of the Act because we have determined, and the Secretary certifies, that this proposed rule would not have a significant impact on the operations of a substantial number of small rural hospitals.

Executive Order 13132 establishes certain requirements that an agency must meet when it issues 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. Since this regulation does not impose any costs on state or local governments, the requirements of Executive Order 13132 are not applicable.

This proposed rule may be of interest to, and affect, American Indians/Alaska Natives. Therefore, we plan to consult with Tribes during the comment period and prior to publishing a final rule.

C. Anticipated Effects

1. Effects on State Medicaid Programs

We anticipate, effective for FY 2014, that the proposed DSH allotment reductions would have a direct effect on the ability for some or all states to maintain state-wide Medicaid DSH payments at FY 2013 levels. Federal share DSH allotments, which are published by CMS in an annual **Federal Register** notice, limit the amount of federal financial participation (FFP) in the aggregate that states can pay annually in DSH payments to hospitals. This proposed rule would reduce state DSH allotment amounts and would, therefore, limit the states' ability to make DSH payments and claim FFP for DSH payments at FY 2013 levels. By statute, the rule would reduce state DSH allotments by $500,000,000 for FY 2014 and $600,000,000 for FY 2015. We anticipate that the rule would reduce total federal financial participation claimed by states by similar amounts, although it may not equal the exact amount of the allotment reductions. Due to the complexity of the interaction among the proposed DHRM methodology, state DSH allotments, DHRM data, future state DSH payment levels and methodologies for FY 2014 and FY 2015, we cannot provide a specific estimate of the total federal financial impact for each year.

The proposed rule utilizes a DHRM that would mitigate the negative impact on states that continue to have high percentages of uninsured and are targeting DSH payments on hospitals that have a high volume of Medicaid inpatient and on hospitals with high levels of uncompensated care.

2. Effects on Providers

We anticipate that the final rule would affect certain providers through the reduction of state DSH payments. We cannot, however, estimate the impact on individual providers or groups of providers. This proposed rule would not affect the considerable flexibility afforded states in setting DSH state plan payment methodologies to the extent that these methodologies are consistent with section 1923(c) of the Act and all other applicable statute and regulations. States would retain the ability to preserve existing DSH payment methodologies or to propose modified methodologies by submitting state plan amendments to us. Some states may determine that implementing a proportional reduction in DSH payments for all qualifying hospitals is the preferred method to account for the reduced allotment. Alternatively, states could determine that it the best action is to propose a methodology that would direct DSH payments reductions to hospitals that do not have high Medicaid volume and do not have high levels of uncompensated care. Regardless, the rule incentivizes states to target DSH payments to hospitals that are most in need of Medicaid DSH funding based on their serving a high volume of Medicaid inpatient and having a high level of uncompensated care.

This proposed rule also does not affect the calculation of the hospital-specific DSH limit established at section 1923(g) of the Act. This hospital-specific limit requires that Medicaid DSH payments to a qualifying hospital not exceed the costs incurred by that hospital for providing inpatient and outpatient hospital services furnished during the year to Medicaid patients and individuals who have no health insurance or other source of third party coverage for the services provided during the year, less applicable revenues for those services.

Although this rule would reduce state DSH allotments, the management of the reduced allotments still largely remains with the states. Given that states would retain the same flexibility to design DSH payment methodologies under the state plan and that individual hospital DSH payment limits would not be reduced, we cannot predict whether and how states would exercise their flexibility in setting DSH payments to account for their reduced DSH allotment and how this would affect individual providers or specific groups of providers.

D. Alternatives Considered

The Affordable Care Act specifies the annual DSH allotment reduction amounts for FY 2014 and FY 2015. Therefore, we were unable to consider alternative reduction amounts. Alternatives to the proposed DHRM methodology are discussed through the preceding section of this rule.

E. Accounting Statement and Table

As required by OMB Circular A–4 (available at *http://www.whitehouse.gov/omb/circulars_a004_a-4/*), we have prepared an accounting statement table showing the classification of the impacts associated with implementation of this proposed rule.

TABLE 2—ACCOUNTING STATEMENT

Category	Estimates	Units		
		Year dollar	Discount rate	Period covered
Transfers:				
Annualized Reductions in Disproportionate Share Hospital Allotment (in millions)	−548	2013	7%	2014–2015
	−549	2013	3%	2014–2015
From Whom to Whom	Federal Government to the States due to assumed reduced number of uninsured and uncompensated care.			

List of Subjects in 42 CFR Part 447

Accounting, Administrative practice and procedure, Drugs, Grant programs—health, Health facilities, Health professions, Medicaid, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services proposes to amend 42 CFR chapter IV as set forth below:

PART 447—PAYMENTS FOR SERVICES

■ 1. The authority citation for part 447 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

Subpart E—Payment Adjustments for Hospitals That Serve a Disproportionate Number of Low-Income Patients

■ 2. Section 447.294 is added to read as follows:

§ 447.294 Medicaid disproportionate share hospital (DSH) allotment reductions for Federal fiscal year 2014 and Federal fiscal year 2015.

(a) *Basis and purpose.* This section sets forth the DSH health reform methodology (DHRM) for calculating State-specific annual DSH allotment reductions from Federal fiscal year 2014 and Federal fiscal year 2015 as required under section 1923(f) of the Act.

(b) *Definitions.* For purposes of this section—

Aggregate DSH allotment reductions mean the amounts identified in section 1923(f)(7)(A)(ii) of the Act.

Budget neutrality factor (BNF) is a factor incorporated in the DHRM that takes into account the extent to which the DSH allotment for a State was included in the budget neutrality calculation for a coverage expansion approved under section 1115 as of July 31, 2009.

DSH payment means the amount reported in accordance with § 447.299(c)(17).

Effective DSH allotment means the amount of DSH allotment determined by subtracting the State-specific DSH allotment from a State's unreduced DSH allotment.

High level of uncompensated care factor (HUF) is a factor incorporated in the DHRM that results in larger percentage DSH allotment reduction for States that do not target DSH payments on hospitals with high levels of uncompensated care.

High Medicaid volume hospital means a disproportionate share hospital that has an MIUR at least one standard deviation above the mean MIUR for hospitals receiving Medicaid payments in the State.

High uncompensated care hospital means a hospital that exceeds the mean ratio of uncompensated care costs to total Medicaid and uninsured inpatient and outpatient hospital service costs for all disproportionate share hospitals within a state.

High volume of Medicaid inpatients factor (HMF) is a factor incorporated in the DHRM that results in larger percentage DSH allotment reduction for States that do not target DSH payments on hospitals with high volumes of Medicaid inpatients.

Hospital with high volumes of Medicaid inpatients means a disproportionate share hospital that meets the requirements of section 1923(b)(1)(A) of the Act.

Low DSH adjustment factor (LDF) is a factor incorporated in the DHRM that results in a smaller percentage DSH allotment reduction on low DSH States.

Low DSH State means a State that meets the criterion described in section 1923(f)(5)(B) of the Act.

Mean HUF reduction percentage is the mean of each State within a State group's quotient of its HUF reduction dividing by its unreduced DSH allotment.

Medicaid inpatient utilization rate (MIUR) means the rate defined in section 1923(b)(2) of the Act.

Non-high Medicaid volume hospital means a disproportionate share hospitals that does not meet the requirements of section 1923(b)(1)(A) of the Act.

State group means similarly situated States that are collectively identified by DHRM.

State-specific DSH allotment reduction means the amount of annual DSH allotment reduction for a particular State as determined by the DHRM.

Total Medicaid cost means the amount reported in accordance with § 447.299(c)(10).

Total population means the 1-year estimates data of the total non-institutionalized population identified by United States Census Bureau's American Community Survey.

Total uninsured cost means the amount reported for each DSH in accordance with § 447.299(c)(14).

Uncompensated care cost means the amount reported in accordance with § 447.299(c)(16).

Uncompensated care level means a hospital's uncompensated care cost divided by the sum of its total Medicaid cost and its total uninsured cost.

Uninsured percentage factor (UPF) is a factor incorporated in the DHRM that results in larger percentage DSH allotment reductions for States that have the lowest percentages of uninsured individuals.

Uninsured population means 1-year estimates data of the number of uninsured identified by United States Census Bureau's American Community Survey.

Unreduced DSH allotment means the DSH allotment calculated under section 1923(f) of the Act prior to annual reductions under this section.

(c) *Aggregate DSH allotment reduction amounts.* The aggregate DSH allotment reduction amounts are as provided in section 1923(f)(7)(A)(ii) of the Act.

(d) *State data submission requirements.* States are required to submit the mean MIUR, determined in accordance with section 1923(b)(1)(A) of the Act, for all hospitals receiving Medicaid payments in the State and the

value of one standard deviation above such mean. The State must provide this data to CMS by June 30 of each year identified in paragraph (c) of this section.

(e) *DHRM methodology.* Section 1923(f)(7) of the Act requires aggregate annual reduction amounts for FY 2014 and FY 2015 to be reduced through the DHRM. The DHRM is calculated on an annual basis based on the most recent data available to CMS at the time of the calculation. The DHRM is determined as follows:

(1) *Establishing State groups.* For each FY, CMS will separate low-DSH States and non-low DSH states into distinct State groups.

(2) *Aggregate DSH allotment reduction allocation.* CMS will allocate a portion of the aggregate DSH allotment reductions to each State group by the following:

(i) Dividing the sum of each State group's preliminary unreduced DSH allotments by the sum of both State groups' preliminary unreduced DSH allotment amounts to determine a percentage.

(ii) Multiplying the value of paragraph (e)(2)(i) of this section by the aggregate DSH allotment reduction amount under paragraph (c) of this section for the applicable fiscal year.

(iii) Applying the low DSH adjustment factor under paragraph (e)(3) of this section.

(3) *Low DSH adjustment factor (LDF) calculation.* CMS will calculate the LDF by the following:

(i) Dividing each State's preliminary unreduced DSH allotment by their respective total Medicaid service expenditures for the applicable year.

(ii) Calculating for each State group the mean of all values determined in paragraph (e)(3)(i) of this section.

(iii) Dividing the value of paragraph (e)(3)(ii) of this section for the low-DSH State group by the value of paragraph (e)(3)(ii) for the non-low DSH state group.

(4) *LDF application.* CMS will determine the final aggregate DSH allotment reduction allocation for each State group through application of the LDF by the following:

(i) Multiplying the LDF by the aggregate DSH allotment reduction for the low DSH State group.

(ii) Utilizing the value of paragraph (e)(4)(i) of this section as the aggregate DSH allotment reduction allocated to the low DSH State group.

(iii) Subtracting the value of paragraph (e)(4)(ii) of this section from the value of paragraph (e)(2)(ii) of this section for the low DSH State group; and (iii) adding the value of paragraph (e)(4)(iii) of this section to the value of paragraph (e)(2)(ii) of this section for the non-low DSH State group.

(5) *Reduction factor allocation.* CMS will allocate the aggregate DSH allotment reduction amount to three core factors by multiply the aggregate DSH allotment reduction amount for each State group by the following:

(i) UPF—33 and ⅓ percent.

(ii) HMF—33 and ⅓ percent.

(iii) HUF—33 and ⅓ percent.

(6) *Uninsured percentage factor (UPF) calculation.* CMS will calculate the UPF by the following:

(i) Dividing the total State population by the uninsured in State for each State.

(ii) Determining the uninsured reduction allocation component for each State as a percentage by dividing each State's value of paragraph (e)(6)(i) of this section by the sum of the values of paragraph (e)(6)(i) of this section for the respective State group (the sum of the values of all States in the State group should total 100 percent).

(iii) Determine a weighting factor by dividing each State's unreduced DSH allotment by the sum of all preliminary unreduced DSH allotments for the respective State group.

(iv) Multiply the weighting factor calculated in paragraph (e)(6)(iii) of this section by the value of each State's uninsured reduction allocation component from paragraph (e)(6)(ii) of this section.

(v) Determine the UPF as a percentage by dividing the product of paragraph (e)(6)(iv) of this section for each State by the sum of the values of paragraph (e)(6)(iv) of this section for the respective State group (the sum of the values of all States in the State group should total 100 percent).

(7) *UPF application and reduction amount.* CMS will determine the UPF portion of the final aggregate DSH allotment reduction allocation for each State by multiplying the State's UPF by the aggregate DSH allotment reduction allocated to the UPF factor under paragraph (e)(5) of this section for the respective State group.

(8) *High volume of Medicaid inpatients factor (HMF) calculation.* CMS will calculate the HMF by determining a percentage for each State by dividing the State's total DSH payments made to non-high Medicaid volume hospitals by the total of such payments for the entire State group.

(9) *HMF application and reduction amount.* CMS will determine the HMF portion of the final aggregate DSH allotment reduction allocation for each State by multiplying the State's HMF by the aggregate DSH allotment reduction allocated to the HMF factor under paragraph (e)(5) of this section for the respective State group.

(10) *High level of uncompensated care factor (HUF) calculation.* CMS will calculate the HMF by determining a percentage for each State by dividing the State's total DSH payments made to non-High Uncompensated Care Level hospitals by the total of such payments for the entire State group.

(11) *HUF application and reduction amount.* CMS will determine the HUF portion of the final aggregate DSH allotment reduction allocation by multiplying each State's HUF by the aggregate DSH allotment reduction allocated to the HUF factor under paragraph (e)(5) of this section for the respective State group.

(12) *Section 1115 budget neutrality factor (BNF) calculation.* This factor is only calculated for States for which all or a portion of the DSH allotment was included in the calculation of budget neutrality under a section 1115 demonstration for the specific fiscal year subject to reduction pursuant to an approval on or before July 31, 2009. CMS will calculate the BNF for qualifying states by the following:

(i) For States whose DSH allotment was included in the budget neutrality calculation for a coverage expansion that was approved under section 1115 as of July 31, 2009, (without regard to approved amendments since that date) determining the amount of the State's DSH allotment included in the budget neutrality calculation for coverage expansion for the specific fiscal year subject to reduction. This amount is not subject to reductions under the HMF and HUF calculations.

(ii) Determining the amount of the State's DSH allotment included in the budget neutrality calculation for non-coverage expansion purposes for the specific fiscal year subject to reduction.

(iii) Multiplying each qualifying State's value of paragraph (e)(10)(ii) of this section by the mean HMF reduction percentage for the respective State group.

(iv) Multiplying each qualifying State's value of paragraph (e)(10)(ii) of this section by the mean HUF reduction percentage for the respective State group.

(v) For each State, calculating the sum of the value of paragraphs (e)(10)(iii) and of (e)(10)(iv) of this section.

(13) *Section 1115 budget neutrality factor (BNF) application.* This factor will be applied in the State-specific DSH allotment reduction calculation.

(14) *State-specific DSH allotment reduction calculation.* CMS will calculate the state-specific DSH reduction by the following:

(i) Taking the sum of the value of paragraphs (e)(7), (e)(9), and (e)(11) of this section for each State.

(ii) For States qualifying under paragraph (e)(12) of this section, adding the value of paragraph (e)(12)(v) of this section.

(iii) Reducing the amount of paragraph (e)(14)(i) of this section for each State that does not qualify under paragraph (e)(12)(v) based on the proportion of each State's preliminary unreduced DSH allotment compared to the national total of preliminary unreduced DSH allotments so that the sum of paragraph (e)(14)(iii) of this section equals the sum of paragraph (e)(12)(v) of this section.

(f) *Annual DSH allotment reduction application.* For each fiscal year identified in paragraph (c) of this section, CMS will subtract the State-specific DSH allotment amount determined in paragraph (e)(14) of this section from that State's final unreduced DSH allotment. This amount is the State's final DSH allotment for the fiscal year.

■ 3. Section 447.299 is amended by adding paragraphs (c)(19), (c)(20) and (c)(21) to read as follows:

§ 447.299 Reporting requirements.

* * * * *

(c) * * *

(19) Medicaid provider number.

(20) Medicare provider number.

(21) *Total hospital cost.* The total annual costs incurred by each hospital for furnishing inpatient hospital and outpatient hospital services.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: April 26, 2013.

Marilyn Tavenner,

Acting Administrator, Centers for Medicare & Medicaid Services.

Approved: May 9, 2013.

Kathleen Sebelius,

Secretary, Department of Health and Human Services.

[FR Doc. 2013–11550 Filed 5–13–13; 11:15 am]

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NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

National Endowment for the Humanities

45 CFR Part 1172

RIN 3136–AA33

Nondiscrimination on the Basis of Age in Federally Assisted Programs or Activities

AGENCY: National Endowment for the Humanities, National Foundation on the Arts and Humanities.

ACTION: Proposed rule.

SUMMARY: The National Endowment for the Humanities (NEH) is issuing Age Discrimination Act of 1975 regulations at 45 CFR part 1172. These regulations implement provisions of the Age Discrimination Act of 1975 and the general, government-wide age discrimination regulations promulgated by the United States Department of Health and Human Services (HHS).

These regulations are designed to guide the actions of recipients of Federal financial assistance from NEH and incorporate the basic standards set forth in the general, government-wide regulations for determining what constitutes age discrimination. The regulations also discuss the responsibilities of NEH recipients and the investigations, conciliation, and enforcement procedures NEH has been using and will continue to use to ensure compliance with the Act.

DATES: Written comments must be postmarked and electronic comments must be submitted on or before July 15, 2013.

ADDRESSES: You may submit comments by any of the following methods: email to *gencounsel@neh.gov;* fax to 202–606–8600, please send your comments to the attention of Gina Raimond; or postal mail to Gina Raimond, Attorney Advisor, Office of the General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Ave. NW., Room 529, Washington, DC 20506. To ensure proper handling, please reference "Age Discrimination Act Regulations" on your correspondence.

FOR FURTHER INFORMATION CONTACT: Gina Raimond, Office of the General Counsel, National Endowment for the Humanities, 202–606–8322 (voice) or 202–606–8282 (TDD).

SUPPLEMENTARY INFORMATION:

Background Information

The Age Discrimination Act of 1975, as amended, 29 U.S.C. 6101, *et seq.,* (the "Act"), prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act, which applies to persons of all ages, also contains certain exceptions that permit, under limited circumstances, use of age distinctions or factors other than age that may have a disproportionate effect on the basis of age.

The Act required the former Department of Health, Education and Welfare (HEW) to issue general, government-wide regulations setting standards to be followed by all Federal agencies implementing the Act. These government-wide regulations, issued on June 12, 1979 and codified at 45 CFR part 90, require each agency to publish agency-specific regulations implementing the Act and to submit such final agency regulations to HEW (now HHS) before publication in the **Federal Register** (*see* 45 CFR part 90.31). The Act became effective on July 1, 1979—the effective date of HEW's final government-wide regulations—and NEH has enforced the provisions of the Act since that time. NEH first proposed agency-specific regulations implementing the Act on October 4, 1979 (44 FR 57130), which were closely based on the general, government-wide regulations. NEH's original proposed rule adopted many substantively identical sections and cross-referenced sections from the government-wide regulations, rather than repeating them in full. HHS reviewed and approved NEH's initial agency-specific regulations in 1985; however, NEH did not publish the final regulations.

Since such a significant amount of time has passed since NEH initially drafted the proposed rule, and because regulatory development guidelines have changed over the years, NEH determined that it would be best to begin the regulatory process anew by drafting new agency-specific age discrimination regulations. As a practical matter, however, the absence of agency-specific regulations has not affected NEH's enforcement of prohibitions against discrimination on the basis of age in programs or activities receiving financial assistance from NEH. Further, NEH has consistently fulfilled its obligation to report annually to Congress through HHS on its compliance and enforcement activities.

Overview of Proposed Rule

NEH has designed this proposed rule to fulfill the agency's statutory and regulatory obligations to issue a regulation implementing the Act that conforms to the government-wide regulations at 45 CFR part 90.

NEH's proposed regulations are divided into four parts: Subpart A—General; Subpart B Standards for Determining Age Discrimination; Subpart C—Responsibilities of NEH Recipients; and Subpart D—Investigation, Conciliation, and Enforcement Procedures.

Subpart A—General

Subpart A explains the purpose of NEH's age discrimination regulations, which is to set out NEH's policies and procedures in accordance with the Act and the government-wide regulations. The regulations apply to any program or activity receiving Federal financial assistance from NEH. Subpart A also defines terms used in the regulations, many of which are identical to the definitions in the government-wide regulations. The definition of the term "recipient" points out the inapplicability of these regulations to assistance programs administered directly by the Federal government to beneficiaries. With respect to direct assistance programs, the regulations may apply whenever direct aid is provided to an individual on conditions that the aid is spent in providing services or benefits to others. Further, because the Act contains several exceptions which limit the general prohibition against age discrimination, the regulations provide definitions for two terms that are essential to understanding two of those exceptions: "normal operation" and "statutory objective."

Subpart B—Standards for Determining Age Discrimination

Subpart B sets out the standards NEH uses for determining illegal age discrimination, which are based on the government-wide regulations. The regulations also establish a four-part test for a specific age distinction to satisfy the "normal operation" or "statutory objective" requirement for a recipient to use an age-based distinction in a program or activity receiving Federal financial assistance. NEH will use this four-part test to scrutinize age distinctions, if any, which are imposed in NEH-assisted programs, but which are not explicitly authorized by a Federal, State or local statute. NEH recipients are also permitted to take an action otherwise prohibited by the Act if the action is based on "reasonable factors other than age," but only if the factor bears a direct and substantial relationship to the program's normal operation or to the achievement of a statutory objective.

Subpart C—Responsibilities of NEH Recipients

Subpart C sets forth the duties of NEH recipients. NEH recipients are responsible for ensuring that their programs and activities are in compliance with the Act and NEH regulations. Where an NEH recipient passes on financial assistance to subrecipients, the recipient must notify subrecipients of their obligations under the regulations. Under these regulations, NEH could require a recipient or subrecipient to complete a written self-evaluation of its compliance with the Act and these regulations. The self-evaluation must be kept on file for three years from its effective date and made available to the public upon request.

Subpart D—Investigation, Conciliation, and Enforcement Procedures

Subpart D establishes the procedures for investigation, conciliation, and enforcement of the Act, and closely follows the procedural requirements included in the government-wide age discrimination regulations. Mediation is the first step in the complaint process. NEH will refer all complaints of discrimination under the Act to the Federal agency designated by HHS to manage the mediation process. Complainants and NEH recipients must participate in the effort to reach a mutually satisfactory settlement. Mediation may last no more than sixty (60) days from the date NEH first receives the complaint. NEH will investigate any complaints that are unresolved after mediation or are reopened because the settlement agreement is violated. Finally, the regulations permit NEH to withhold funds and disburse them to an appropriate alternate recipient, if the alternate has demonstrated the ability to comply with the regulations and to achieve the goals of the National Foundation on the Arts and the Humanities Act of 1965.

Regulatory Procedures

Executive Order 12866, Regulatory Review

NEH has determined that the proposed rule is not a "significant regulatory action" under Executive Order 12866 because it will not: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866. Therefore, the proposed rule is not subject to Office of Management and Budget (OMB) review.

Regulatory Flexibility Act

In accordance with section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601, *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996), the Chairman of NEH certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. In making this determination, NEH used the definition of *small entity* set forth in the RFA: (1) A small business, as defined by the Small Business Administration (SBA) in 13 CFR part 121.201; (2) a small governmental jurisdiction, which is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization, which is any non-profit enterprise that is independently owned and operated and is not dominant in its field. Some NEH grant programs support humanities projects developed by small, independently-owned non-profits, such as museums, libraries, and other cultural organizations. NEH funds approximately 75–100 small non-profits each year, which accounts for less than ten percent of NEH's annual funding.

However, the proposed rule, if promulgated in final form, will not impose any additional requirements on these small entities because it will not substantively change existing requirements, but will merely clarify such duties for entities receiving financial assistance from NEH. The requirements prohibiting age discrimination by recipients of Federal financial assistance contained in the Act and the government-wide regulations have been in effect since 1979. The proposed rule only formalizes those existing requirements for NEH recipients.

Small Business Regulatory Enforcement Fairness Act of 1996

NEH has determined that the proposed rule is not a "major rule" as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), as amended, Public Law 104–121 (5 U.S.C. 804). This rule will not result in: (1) An

annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4 (2 U.S.C. 1501, *et seq.*), does not apply to the proposed rule because it does not apply to regulatory actions that establish or enforce statutory rights that prohibit discrimination on the basis of race, color, religion, sex, national origin, age, handicap or disability. Further, the proposed rule contains no "Federal mandate" under Title II of UMRA because UMRA excludes from the definitions of "Federal intergovernmental mandate" and "Federal private sector mandate" duties that arise from conditions of Federal assistance and duties that arise from participation in a voluntary Federal program. Congress mandated in the Act the establishment of these agency-specific regulations to enforce the prohibition of discrimination on the basis of age in programs or activities receiving Federal financial assistance. These regulations do not apply to any program or activity unless it applies for and receives financial assistance from NEH. Application for, and receipt of, NEH assistance is entirely voluntary. In addition, NEH has determined that the proposed rule will not significantly or uniquely affect small governments. These regulations apply uniformly to all organizational recipients of NEH financial assistance.

Paperwork Reduction Act

NEH has determined that the Paperwork Reduction Act (PRA), 44 U.S.C. 3501, *et seq.*, does not apply because the proposed rule does not impose any new information collection requirements that require OMB approval. Section 3518(c)(1)(B) of the PRA exempts from OMB approval, collections of information "during the conduct of . . . (ii) an administrative action or investigation involving an agency against specific individuals or entities." These regulations provide NEH with discretionary authority to require information from recipients as part of an investigation, thereby eliminating any PRA concerns, because it is discretionary and tied to NEH's authority to investigate. Further, the proposed rule provides that individuals "may file" complaints and requires that recipients provide notice to subrecipients of their obligations under the Act and the regulations, neither of which involve a "collection of information" under the PRA.

List of Subjects in 45 CFR Part 1172

Administrative practice and procedure, Age discrimination, Civil rights, Grant programs, Reporting and recordkeeping requirements.

Dated: May 1, 2013.

Michael P. McDonald,

General Counsel.

For the reasons stated in the preamble, NEH proposes to amend 45 CFR Subchapter D by adding part 1172 as follows:

PART 1172—NONDISCRIMINATION ON THE BASIS OF AGE IN FEDERALLY ASSISTED PROGRAMS OR ACTIVITIES

Subpart A—General

Subpart B—Standards for Determining Age Discrimination

Subpart C—Responsibilities of NEH Recipients

Subpart D—Investigation, Conciliation, and Enforcement Procedures

Authority: 42 U.S.C. 6101–6107; 45 CFR 90.

Subpart A—General

§ 1172.1 Purpose.

The purpose of this part is to implement the Age Discrimination Act of 1975, and as required by the general, government-wide age discrimination regulations at 45 CFR part 90. The Act is designed to prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act also permits federally assisted programs or activities, and recipients of Federal funds, to continue to use certain age distinctions and factors other than age which meet the requirements of the Act and these regulations.

§ 1172.2 Application.

(a) The Act and the regulations in this part apply to any program or activity receiving financial assistance from the National Endowment for the Humanities (NEH).

(b) The Act does not apply to:

(1) Any age distinction contained in that part of a Federal, State or local statute or ordinance adopted by an elected, general purpose legislative body which:

(i) Provides any benefits or assistance to persons based on age;

(ii) Established criteria for participation in age-related terms; or

(iii) Described intended beneficiaries or target groups in age-related terms.

(2) Any employment practice of any employer, employment agency, labor organization, or any labor-management joint apprenticeship training program, except for any program or activity receiving Federal financial assistance for public service employment under the Workforce Investment Act of 1998 (29 U.S.C. 2801, *et seq.*).

§ 1172.3 Definitions.

As used in these regulations, the term:

Act means the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101, *et seq.* (Title III of Pub. L. 94–135).

Action means any act, activity, policy, rule, standard, or method of administration; or the use of any policy, rule, standard, or method of administration.

Age means how old a person is, or the number of elapsed years from the date of a person's birth.

Age distinction means any action using age or an age-related term.

Age-related term means a word or words which necessarily imply a particular age or range of ages (for example, *children, adult, older persons,* but not *student*).

Agency means a Federal department or agency that is empowered to extend financial assistance.

Chairman means the Chairman of the National Endowment for the Humanities.

Federal financial assistance means any grant, entitlement, loan, cooperative

agreement, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which NEH provides or otherwise makes available assistance in the form of:

(1) Funds;

(2) Services of Federal personnel; or

(3) Real and personal property or any interest in or use of property, including:

(i) Transfers or leases of property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of property if the Federal share of its fair market value is not returned to the Federal Government.

Normal operation means the operation of a program or activity without significant changes that would impair its ability to meet its objectives.

Program or activity means all of the operations of:

(1)(i) A department, agency, special purpose district, or other instrumentality of a State or local government, or

(ii) The entity of such State or local government that distributes Federal financial assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(i) A college, university, or other postsecondary institution, or a public system of higher education, or

(ii) A local educational agency (as defined in 20 U.S.C. 7801), system of vocational education, or other school system;

(3)(i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole, or

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity which is established by two or more of the entities described in paragraph (a), (b), or (c) of this definition, any part of which is extended Federal financial assistance.

Recipient means any State or its political subdivision, any instrumentality of a State or its political sub-division, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended, directly or through another recipient. Recipient includes any successor, assignee, or transferee, but excludes the ultimate beneficiary of the assistance.

Secretary means the Secretary of the Department of Health and Human Services.

Statutory objective means any purpose of a program or activity expressly stated in any Federal statute, State statute, or local statute or ordinance adopted by an elected, general purpose legislative body.

Subrecipient means any of the entities in the definition of recipient to which a recipient extends or passed on Federal financial assistance. A subrecipient is generally regarded as a recipient of Federal financial assistance and has all the duties of a recipient in these regulations.

United States means the fifty states, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, the Trust Territory of the Pacific Islands, the Northern Marianas, and the territories and possessions of the United States.

Subpart B—Standards for Determining Age Discrimination

§ 1172.11 Rules against age discrimination.

The rules stated in this section are limited by the exceptions contained in § 1172.12.

(a) *General rule:* No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

(b) *Specific rules:* A recipient may not, in any program or activity receiving Federal financial assistance, directly or through contractual, licensing, or other arrangements use age distinctions or take any other actions which have the effect, on the basis of age, of:

(1) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under, a program or activity receiving Federal financial assistance, or

(2) Denying or limiting individuals in their opportunity to participate in any program or activity receiving Federal financial assistance.

(c) The specific forms of age discrimination listed in paragraph (b) of this section do not necessarily constitute a complete list of discriminatory actions.

§ 1172.12 Exceptions to the rules against age discrimination.

(a) *Normal operation or statutory objective of any program or activity.* A recipient may take an action otherwise prohibited by § 1172.11 if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity, if:

(1) Age is used as a measure or approximation of one or more other characteristics;

(2) The other characteristic(s) must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity;

(3) The other characteristic(s) can be reasonably measured or approximated by the use of age; and

(4) The other characteristic(s) are impractical to measure directly on an individual basis.

(b) *Reasonable factors other than age.* A recipient may take an action otherwise prohibited by § 1172.11 which is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages. An action may be based on a factor other than age only if the factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective.

(c) *Affirmative action by recipient.* Even in the absence of a finding of discrimination, a recipient may take affirmative action to overcome the effects or conditions that resulted in limited participation in the recipient's program or activity on the basis of age.

(d) *Special benefits for children and the elderly.* If a recipient operating a program or activity provides special benefits to the elderly or to children, such use of age distinctions shall be presumed to be necessary to the normal operation of the program or activity, notwithstanding the provisions of § 1172.11.

§ 1172.13 Burden of proof.

The recipient of Federal financial assistance bears the burden of proving that an age distinction or other action falls within the exceptions outlined in § 1172.12.

Subpart C—Responsibilities of NEH recipients

§ 1172.21 General responsibilities.

A recipient has responsibility to ensure that its programs or activities are in compliance with the Act and these regulations and to take steps to

eliminate violations of the Act and these regulations. A recipient also has responsibility to maintain records, provide information, and to afford NEH access to its records to the extent NEH finds necessary to determine whether the recipient is in compliance with the Act and these regulations.

§ 1172.22 Notice to subrecipients.

Where a recipient passes on Federal financial assistance from NEH to subrecipients, the recipient must provide the subrecipients with written notice of their obligations under the Act and these regulations. Each recipient must also make necessary information available to its beneficiaries in order to inform them about the protections against discrimination provided by the Act and these regulations.

§ 1172.23 Self-evaluation.

As part of a compliance review under § 1172.31 or a complaint investigation under § 1172.34, NEH may require a recipient employing the equivalent of fifteen (15) or more full time employees to complete a written self-evaluation, in a manner specified by NEH, of any age distinction imposed in its program or activity receiving Federal financial assistance. A recipient must take corrective and remedial action whenever a self-evaluation indicates a violation of the Act, and the recipient must make the self-evaluation available upon request to NEH and to the public for a period of three (3) years following its completion.

§ 1172.24 Information requirements.

Each recipient must keep records containing information necessary to determine whether the recipient is in compliance with the Act and these regulations, and must make them available to NEH upon request. Each recipient must also permit reasonable access by NEH to its books, records, accounts, and other facilities and sources of information, to the extent necessary for NEH to determine whether the recipient is in compliance with the Act and this part.

Subpart D—Investigation, Conciliation, and Enforcement Procedures

§ 1172.31 Compliance reviews.

(a) NEH may conduct compliance reviews, pre-award reviews, and other similar procedures in order to investigate and correct violations of the Act and these regulations. NEH may conduct these reviews even in absence of a complaint against the recipient. Reviews may be as comprehensive as necessary to determine whether a recipient is in compliance with the Act and this part.

(b) If a compliance review or pre-award review indicates a violation of the Act and these regulations, NEH will attempt to contact the recipient and achieve the recipient's voluntary compliance with the Act. If the recipient does not comply voluntarily, NEH may pursue enforcement efforts as described in § 1172.36.

§ 1172.32 Complaints.

(a) Any person, individually or as a member of a class or on behalf of others, may file a complaint with NEH, alleging discrimination prohibited by the Act and the regulations in this part based on an action occurring on or after July 1, 1979. A complainant must file a complaint in writing within 180 days from the date that the complainant first had knowledge of the alleged act of discrimination. However, for good cause, NEH may extend this time limit. NEH will consider the date a complaint is filed as the date when the complaint is sufficient to be processed.

(b) Complaints must include a written and signed statement identifying the parties involved, describing the alleged violation, and stating the date on which the complainant first had knowledge of the alleged violation.

(c) NEH will attempt to facilitate the filing of complaints wherever possible, including taking the following measures, as appropriate:

(1) Widely disseminating information regarding the obligations of recipients under the Act and this part,

(2) Permitting a complainant to add information to the complaint to meet the requirements of a sufficient complaint,

(3) Notifying the complainant and the recipient (or their representatives) of their rights and obligations under the complaint procedure, including the right to have a representative at all stages of the complaint procedure, and/or

(4) Notifying the complainant and the recipient (or their representatives) of their right to contact NEH for information and assistance regarding the complaint resolution process.

(d) NEH will return any complaint that is unsigned or that is not within NEH's jurisdiction for any other reason, and NEH will provide an explanation for the return.

§ 1172.33 Mediation.

(a) *Referral of complaints for mediation.* NEH will promptly refer all complaints that fall within the jurisdiction of these regulations, and that contain all information necessary for further processing, to the agency designated by the Secretary to manage the mediation process.

(b) Both the complainant and the recipient must participate in the mediation process to the extent necessary to reach an agreement, or for the mediator to make an informal judgment that an agreement is impossible. The complainant and recipient must meet with the mediator at least once before NEH will accept a judgment that an agreement is impossible. However, the recipient and the complainant need not meet with the mediator at the same time.

(c) If the complainant and recipient reach a mutually satisfactory resolution of the complaint during the mediation period, they must prepare an agreement in writing. The mediator will send a copy of the settlement agreement to NEH. NEH will take no further action based on that complaint unless it appears that the complainant or the recipient has failed to comply with the agreement.

(d) The mediator will protect the confidentiality of all information obtained in the course of the mediation process, and no mediator shall testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained in the course of the mediation process without prior approval of the head of the mediation agency.

(e) If the complainant and recipient do not reach a mutually satisfactory resolution during mediation within sixty (60) days after NEH receives the complaint, the mediator must return the complaint to NEH for investigation. The mediator may return a complaint at any time before the end of the sixty-day period if it appears that the complaint cannot be resolved through mediation. The mediator may extend this sixty-day period, provided NEH concurs, for not more than thirty (30) days, if the mediator determines that resolution is likely to occur within such period.

§ 1172.34 Investigation.

(a) *Informal investigation.* (1) NEH will investigate complaints that are unresolved after mediation or are reopened because of a violation of a settlement agreement.

(i) As part of this initial investigation, NEH will use informal fact-finding methods, including joint or separate discussions with the complainant and the recipient to establish the facts, and, if possible, resolve the complaint to the mutual satisfaction of the parties. NEH may seek the assistance of any involved State agency.

(ii) NEH will put any settlement agreement in writing and have it signed

by the parties and NEH. The settlement is not a finding of discrimination against a recipient.

(2) The settlement shall not affect the operation of any other enforcement effort of NEH, including compliance reviews and investigation of other complaints which may involve the recipient.

(b) *Formal investigation.* If NEH cannot resolve the complaint through informal investigation, it will develop formal findings through further investigation of the complaint. If the formal investigation indicates a violation of the Act or these regulations, NEH will attempt to obtain voluntary compliance. If NEH cannot obtain voluntary compliance, it will arrange for enforcement as described in § 1172.36.

§ 1172.35 Prohibition against intimidation or retaliation.

A recipient may not engage in acts of intimidation or retaliation against any person who attempts to assert a right protected by the Act or this part, or cooperates in any mediation, investigation, hearing, or other part of NEH's investigation, conciliation, and enforcement process.

§ 1172.36 Compliance procedure.

(a) NEH may enforce the Act and the regulations in this part through:

(1) Termination of a recipient's Federal financial assistance under the program or activity involved where the recipient has violated the Actor these regulations. A recipient must have the opportunity for a hearing on record before an administrative law judge, who must determine that a violation has occurred. The determination of the recipient's violation may be made only after a recipient has had an opportunity for a hearing on the record before an administrative law judge. Therefore, NEH will not terminate a recipient's Federal financial assistance in a case that has been settled in mediation, or prior to a hearing, unless the case is reopened because of a violation of the settlement agreement.

(2) Any other means authorized by law, including but not limited to:

(i) Referral to the Department of Justice for proceedings to enforce any rights of the United States or obligations of the recipient created by the Act or these regulations.

(ii) Use of any requirement of or referral to any Federal, State, or local government agency that will have the effect of correcting a violation of the Act or this part.

(b) NEH will limit any termination under § 1172.36(a)(1) to the particular recipient and particular program or activity, or portion thereof, that NEH finds in violation of the Act or these regulations. NEH will not base its decision to terminate on any other program or activity of the recipient that does not receive Federal financial assistance from NEH.

(c) NEH will not take action under § 1172.36(a) until:

(1) The Chairman has advised the recipient of its failure to comply with the Act or these regulations, and that NEH has determined that voluntary compliance cannot be obtained, and

(2) Thirty (30) days have elapsed after the Chairman has sent a written report of the circumstances and grounds of the action to the Congressional Committee(s) having legislative jurisdiction over the program or activity involved. The Chairman will file such report whenever it takes action under § 1172.36(a).

(d) NEH also may defer granting new Federal financial assistance to a recipient when a hearing under § 1172.36(a)(1) is initiated.

(1) New Federal financial assistance includes all assistance for which NEH requires an application or approval, including renewal or continuation of existing activities, or authorization of new activities, during the deferral period. New Federal financial assistance does not include assistance approved prior to the beginning of a termination hearing under § 1172.36(a)(1), or increases in funding as a result of changed computation of formula awards.

(2) NEH will not begin a deferral until the recipient has received a notice of an opportunity for a hearing under § 1172.36(a)(1). NEH will not continue a deferral for more than sixty (60) days unless a hearing has begun within that time, or the time for beginning the hearing has been extended by mutual written consent of the recipient and NEH. NEH will not continue a deferral for more than thirty (30) days after the close of the hearing, unless the hearing results in a finding against the recipient. If the hearing results in a finding against the recipient, NEH must terminate funds.

§ 1172.37 Hearings, decisions, post-termination proceedings.

Certain NEH procedural provisions applicable to Title VI of the Civil Rights Act of 1964 apply to NEH enforcement of these regulations. They are found at 45 CFR 1110.9 through 1110.11.

§ 1172.38 Remedial action by recipients.

Where NEH finds a recipient has discriminated on the basis of age, the recipient shall take any remedial action that NEH may require to overcome the effects of discrimination. If another recipient exercises control over the recipient that has discriminated, NEH may require both recipients to take remedial action.

§ 1172.39 Alternate funds disbursal procedure.

When NEH withholds funds from a recipient under these regulations, the Chairman may disburse the withheld funds directly to an alternate recipient otherwise eligible for NEH support. NEH will require any alternate recipient to demonstrate the ability to comply with these regulations and to achieve the goals of the National Foundation on the Arts and the Humanities Act of 1965, Public Law 89–209 (20 U.S.C. 951)—the Federal statute authorizing the Federal financial assistance.

§ 1172.40 Exhaustion of administrative remedies.

(a) A complainant may file a civil action under the Act and these regulations following the exhaustion of administrative remedies. Administrative remedies are exhausted if 180 days have elapsed since the complainant filed the complaint and NEH has made no finding with regard to the complaint, or NEH issues any finding in favor of the recipient.

(b) If either of the conditions set forth in § 1172.40(a) is satisfied, NEH will:

(1) Promptly advise the complainant of this fact,

(2) Advise the complainant of his or her right, under section 305(e) of the Act, to bring a civil action for injunctive relief that will effect the purposes of the Act, and

(3) Inform the complainant:

(i) That a civil action can only be brought in a United States district court for the district in which the recipient is found or transacts business,

(ii) That a complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but that these costs must be demanded in the complaint,

(iii) That before commencing the action, the complainant must give thirty (30) days' notice by registered mail to the Secretary, the Attorney General of the United States, the Chairman, and the recipient,

(iv) That the notice must state the alleged violation of the Act, the relief requested, the court in which the action will be brought, and whether or not attorney's fees are demanded in the event the complainant prevails, and

(v) That no action may be brought if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court of the United States.

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BILLING CODE 7536–01–P

Notices

Federal Register
Vol. 78, No. 94
Wednesday, May 15, 2013

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and Opportunity for Public Comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 et seq.), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[5/7/2013 through 5/9/2013]

Firm name	Firm address	Date accepted for investigation	Product(s)
MAASS Midwest MFG, Inc	11283 Dundee Road, Huntley, IL 60142.	5/1/2013	Firm manufactures access housings screens, caps, cylinders, valves, seals, adapters, tees, and air chargers for water wells.
George Risk Industries, Inc	802 S Elm St. GRI Plaza, Kimball, NE 69145.	5/6/2013	The firm manufacturers electrical components and parts for alarms and security systems.
AGY Aiken, LLC	2556 Wagener Road, Aiken, SC 29801.	5/7/2013	The firm produces fiberglass yarns; the primary manufacturing material is fiberglass.
Multiline Technology, Inc	75 Roebling Court, Ronkonkoma, NY 11779.	5/7/2013	Firm manufacturers printed circuit board machinery including registration pinching, X-ray drilling, lamination and depinners.
Manufacturing Methods, LLC	2266 Mt. Misery Road, Leland, NC 28451.	5/9/2013	The firm produces precision machine components and various injection molded parts.
L.E.F., Inc	9401 E. 54th Street, Tulsa, OK 74145.	5/9/2013	The firm provides laser cutting, laser marking & metal fabrication of boards, panels, and electrical apparatus.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Dated: May 9, 2013.

Michael DeVillo,

Eligibility Examiner.

[FR Doc. 2013–11527 Filed 5–14–13; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–44–2013]

Foreign-Trade Zone 52—Suffolk County, New York; Application for Reorganization Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by Suffolk County, grantee of FTZ 52, requesting authority to reorganize the zone under the alternative site framework (ASF) adopted by the FTZ Board (15 CFR 400.2(c)). The ASF is an option for grantees for the establishment

or reorganization of zones and can permit significantly greater flexibility in the designation of new subzones or "usage-driven" FTZ sites for operators/users located within a grantee's "service area" in the context of the FTZ Board's standard 2,000-acre activation limit for a zone. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on May 9, 2013.

FTZ 52 was approved by the FTZ Board on December 13, 1979 (Board Order 150, 44 FR 76381, 12/26/1979). The current zone includes the following site: *Site 1* (53 acres)—MacArthur Airport, 1 Trade Zone Drive, Ronkonkoma, Suffolk County.

The grantee's proposed service area under the ASF would be portions of Suffolk County, New York, as described in the application. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The proposed service area is adjacent to the JFK Airport Customs and Border Protection port of entry.

The applicant is requesting authority to reorganize its existing zone project to include its existing site as a "magnet" sites. The ASF allows for the possible exemption of one magnet site from the "sunset" time limits that generally apply to sites under the ASF, and the applicant proposes that Site 1 be so exempted. No subzones/usage-driven sites are being requested at this time. The application would have no impact on FTZ 52's previously authorized subzone.

In accordance with the FTZ Board's regulations, Elizabeth Whiteman of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is July 15, 2013. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to July 29, 2013.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the "Reading Room" section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz*. For further information, contact Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: May 9, 2013.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–11564 Filed 5–14–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–43–2013]

Notification of Proposed Production Activity: Whirlpool Corporation Subzone 8I; (Washing Machines): Clyde and Green Springs, Ohio

Whirlpool Corporation (Whirlpool), operator of Subzone 8I, submitted a notification of proposed production activity to the FTZ Board for its facilities located in Clyde and Green Springs, Ohio. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on May 1, 2013.

The subzone currently has authority to produce standard and high capacity washing machines using certain imported components. The current request would add subassemblies and other unfinished washing machine parts to the list of approved finished products and would also add imported components to the scope of authority. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Whirlpool from customs duty payments on the foreign status components used in export production. On its domestic sales, Whirlpool would be able to choose the duty rates during customs entry procedures that apply to: washing machine seal and pump assemblies; subassemblies of washing machines; transmission and camshafts for washing machines agitators; gears and gearing for speed changers related to washing machines; clutch assemblies for washing machines; gears and gearing for agitator/washing machine transmissions; motor/actuator assemblies for washing machines; switch/button assemblies for washing machines; control panels for washing machines; control housing assemblies for washing machines; wire harness assemblies for washing machines; laundry pedestals; and, laundry pedestal subassemblies (duty rate ranges from duty-free to 6.7%) for the foreign status inputs noted below and in the existing scope of authority. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The additional components and materials sourced from abroad include: Grommets, covers, spacers and gaskets of plastic; rubber bumpers and grommets; fiberglass seals; nuts of iron or steel; hinges; brackets; refrigeration parts; dishwashing machine parts; drying machine parts; water inlet valves; AC/DC fan motors; AC motors; stators, rotors and parts of motors; hand mixer parts; microwave parts; fixed capacitors; capacitors; RFI filters; thermistor probes; printed circuit boards; drum lights; power cords and wire harnesses of copper; turbidity sensors; and, sensor—spray arms (duty rate ranges from duty-free to 6.5%).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is June 24, 2013

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the "Reading Room" section of the Board's Web site, which is accessible via *www.trade.gov/ftz*.

For further information, contact Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: May 9, 2013.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–11561 Filed 5–14–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–45–2013]

Notification of Proposed Production Activity, LLFlex, LLC, Subzone 29J (Foil Backed Paperboard), Louisville, Kentucky

LLFlex, LLC (LLFlex), operator of Subzone 29J, submitted a notification of proposed production activity to the FTZ Board for its facility located in Louisville, Kentucky. The notification

conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on May 6, 2013.

The subzone currently has authority to produce aluminum foil liner stock. The current request would add foil backed paperboard to the list of approved finished products. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt LLFlex from customs duty payments on the foreign status components used in export production. On its domestic sales, LLFlex would be able to choose the duty rate during customs entry procedures that applies to foil backed paperboard (duty-free) for the foreign status input (converter foil, duty rate 5.8%). Customs duties also could possibly be deferred or reduced on foreign status production equipment.

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is June 24, 2013.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the "Reading Room" section of the Board's Web site, which is accessible via *www.trade.gov/ftz*.

For further information, contact Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: May 9, 2013.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–11566 Filed 5–14–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC685

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Herring Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Tuesday, June 4, 2013 at 9:30 a.m.

ADDRESSES: *Meeting address:* The meeting will be held at the Holiday Inn & Suites, One Newbury Street, Peabody, MA 01960; telephone: (978) 535–4600; fax: (978) 535–8283.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Herring Committee will discuss development of Framework 3 to the Atlantic Herring Fishery Management Plan, which will consider options to establish river herring catch caps in the Atlantic herring fishery and review available data and discuss options for establishing and monitoring river herring catch caps. The Committee will also discuss overlap between the herring and mackerel fisheries and related issues as well as develop Committee recommendations for Council consideration and address other issues related to the development of Framework 3. Other business may be discussed.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 10, 2013.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2013–11529 Filed 5–14–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2013–HA–0107]

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs, DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Office of the Assistant Secretary of Defense for Health Affairs announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 15, 2013.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Mail: Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of the Assistant Secretary of Defense for Health Affairs (OASD), TRICARE—Defense Health Cost Assessment and Program Evaluation, ATTN: Dr. Kimberley Marshall, 7700 Arlington Blvd., Suite 5101, Falls Church, VA 22042–5101, or call (703) 681–3636.

Title; Associated Form; and OMB Number: Patient Centered Medical Home (PCMH) Staff Satisfaction Survey; 0720–TBD.

Needs and Uses: The information collection requirement is necessary to measure satisfaction among staff at direct care military treatment facilities (MTFs) that have been identified as current or potential future PCMHs. The survey will ask staff members what new PCMH processes are or are not working well at the clinic. It will also ask about teamwork among staff at the clinic, the overall clinic environment, and what available resources are assisting them in their provision of quality patient centered care. Eligible staff include: physicians, nurse practitioners, physician assistants, registered nurses, licensed practical nurses, corpsmen, and administrative staff. Over the next 5–7 years, the DoD will make a significant investment in this primary care transformation. By fielding a survey focused on primary care staff satisfaction, the MHS will be able to monitor our investment in PCMH and study how it affects our people.

Affected Public: Individuals and households; MTF contractor providers and support staff.

Annual Burden Hours: 1,035 hours.

Number of Respondents: 3,105.

Responses per Respondent: 1.

Average Burden per Response: 10 minutes.

Frequency: Bi-annual.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The goals of this survey effort are to assess staff satisfaction, attitudes and perceptions regarding the implementation of the patient centered medical home. Respondents will be all military, federal (GS/NSPS) and contracted medical professionals and support staff who work in PCMH clinics. The survey will be administered via a MHS/DoD platform that will capture response data. The survey will be administered via an online tool on a bi-annual basis to medical professionals and support staff. The population sample will receive a pre-notification, and reminder notifications to encourage participation.

Dated: May 10, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–11570 Filed 5–14–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2013–OS–0106]

Proposed Collection; Comment Request

AGENCY: Military Personnel Policy/Accession Policy, DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995*, Military Personnel Policy/Accession Policy announces a proposed reinstatement of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 15, 2013.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Mail: Federal Docket Management System Office, 4800 Mark Center Drive, Suite 02G09, East Tower, 2nd Floor, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of the Under Secretary of Defense (Personnel and Readiness) (Military Personnel Policy/Accession Policy). ATTN: Mr. Dennis J. Drogo, 4000 Defense Pentagon, Washington, DC 20301–4000 or call (703) 697–9268.

Title; Associated Form; and OMB Control Number: DOD Loan Repayment Program (LRP); DD Form 2475, OMB Number 0704–0152.

Needs and Uses: This information collection requirement is necessary because the Military Services are authorized to repay student loans for individuals who meet certain criteria and who enlist for active military service or who enter Reserve service for a specific obligated period. Applicants who qualify for the program forward the DD Form 2475, "DOD Loan Repayment Program (LRP) Annual Application," to their Military Service Personnel Office for processing. The Military Service Personnel Office verifies the information and fills in the loan repayment date, address, and phone number. For the Reserve Components, the Military Service Personnel Office forwards the DD Form 2475 to the lending institution. For active-duty Service, the Service mails the form to the lending institution. The lending institution confirms the loan status and certification and mails the form back to the Military Service Personnel Office.

Affected Public: Business or other for-profit.

Annual Burden Hours: 200.

Number of Respondents: 1,200.

Responses Per Respondent: 1.

Average Burden Per Response: 10 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Public Laws 99–145 and 100–180 authorizes the Military Services to repay student loans for individuals who agree to enter the military in specific occupational areas for a specified obligation period. The legislation requires the Services to verify the status

of the individual's loan prior to repayment. The DD Form 2475, "DOD Loan Repayment Program (LRP) Annual Application," is used to collect the necessary verification data from the lending institution.

Dated: May 3, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–11559 Filed 5–14–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Legal Policy Board; Notice of Federal Advisory Committee Meeting

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense (DoD) announces the following federal advisory committee meeting of the Defense Legal Policy Board (hereafter referred to as "the Board").

ADDRESSES: Holiday Inn Ballston, 4610 N. Fairfax Drive, Arlington, Virginia 22203.

DATES: The meeting will be held on June 7, 2013. The Public Session will begin at 9:00 a.m. and end at 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. David Gruber, Staff Director, Defense Legal Policy Board, PO Box 3656, Arlington, VA 22203. Email: *StaffDirectorDefenseLegalPolicyBoard@osd.mil.* Phone: (703) 696–5449.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: At this meeting the Board will consider the report of the Subcommittee tasked by the Secretary of Defense, in his memorandum of July 30, 2012, to review certain military justice cases in combat zones. The Board is interested in written and oral comments from the public, including non-governmental organizations, relevant to this tasking. The mission of the Board is to advise the Secretary of Defense on legal and related legal policy matters within DoD, the achievement of DoD policy goals through legislation and regulations, and other assigned matters.

Agenda: Prior to the Public Session, the Board will conduct an Administrative Session starting at 8:30 a.m. and ending at 9:00 a.m. to address administrative matters. After the Public Session, the Board will conduct an Administrative Session starting at 4:30 p.m. and ending at 5:00 p.m. to prepare for upcoming meetings. Pursuant to 41 CFR 102–3.160, the public may not attend the Administrative Sessions.

Agenda

- Presentation of the Subcommittee's Findings and Recommendations
- Deliberation on the Board's Advice and Recommendations
- Receipt of Public Comments

Availability of Materials for the Meeting: A copy of the agenda for the June 7, 2013 meeting and the tasking for the Subcommittee may be obtained at the meeting or from the Board's Staff Director at *StaffDirectorDefenseLegalPolicyBoard@osd.mil.*

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, part of this meeting is open to the public. Seating is limited and is on a first-come basis.

Special Accommodations: Individuals requiring special accommodations to access the public meeting should contact the Staff Director at *StaffDirectorDefenseLegalPolicyBoard@osd.mil* at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Procedures for Providing Public Comments: Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written comments to the Board about its mission and topics pertaining to this public session. Written comments must be received by the Designated Federal Officer at least five (5) business days prior to the meeting date so that they may be made available to the Board for their consideration prior to the meeting. Written comments should be submitted via email to the address for the Designated Federal Officer given in **FOR FURTHER INFORMATION CONTACT** in the following formats: Adobe Acrobat, WordPerfect, or Microsoft Word. Please note that since the Board operates under the provisions of the Federal Advisory Committee Act, as amended, all written comments will be treated as public documents and will be made available for public inspection. If members of the public are interested in making an oral statement, a written statement must be submitted along with a request to provide an oral statement. After reviewing the written comments, the Chairperson and the Designated Federal Officer will determine who of the requesting persons will be able to make an oral presentation of their issue during the open portion of this meeting. Determination of who will be making an oral presentation is at the sole discretion of the Committee Chair and the Designated Federal Officer and will depend on time available and relevance to the Committee's activities. Five minutes will be allotted to persons desiring to make an oral presentation. Oral presentations by members of the public will be permitted between 3:30 p.m. and 4:30 p.m. in front of the Board. The number of oral presentations to be made will depend on the number of requests received from members of the public.

Committee's Designated Federal Officer: The Board's Designated Federal Officer is Mr. James Schwenk, Defense Legal Policy Board, PO Box 3656, Arlington, VA 22203. Email: *defenselegalpolicyboarddfo@osd.mil.* Phone: (703) 697–9343. For meeting information please contact Mr. David Gruber, Defense Legal Policy Board, PO Box 3656, Arlington, VA 22203. Email: *StaffDirectorDefenseLegalPolicyBoard@osd.mil.* Phone: (703) 696–5449.

Dated: May 10, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–11549 Filed 5–14–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Task Force on the Care, Management, and Transition of Recovering Wounded, Ill, and Injured Members of the Armed Forces

AGENCY: Office of the Assistant Secretary of Defense, Department of Defense.

ACTION: Meeting notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces the following Federal Advisory Committee meeting of the Department of Defense Task Force on the Care, Management, and Transition of Recovering Wounded, Ill, and Injured Members of the Armed Forces (subsequently referred to as the Task Force).

DATES: Monday, June 10, 2013 from 8:00 a.m. to 5:30 p.m. EDT—Tuesday, June 11, 2013 from 8:00 a.m. to 5:15 p.m. EDT.

ADDRESSES: DoubleTree by Hilton Hotel Washington DC—Crystal City, 300 Army Navy Drive, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Mail Delivery service through Recovering Warrior Task Force, Hoffman Building II, 200 Stovall St, Alexandria, VA 22332–0021 "Mark as Time Sensitive for June Meeting". Emails to *rwtf@wso.whs.mil.* Denise F. Dailey, Designated Federal Officer; Telephone (703) 325–6640. Fax (703) 325–6710.

SUPPLEMENTARY INFORMATION: *Purpose of the Meeting:* The purpose of the meeting is for the Task Force Members to convene and develop recommendations for their FY 2013 annual report.

Agenda: (Refer to *http://dtf.defense.gov/rwtf/meetings.html* for the most up-to-date meeting information).

Day One: Monday, June 10, 2013

8:00 a.m.–9:30 a.m. Administrative/ Review of Recommendations and DoD Implementation Plan
9:30 a.m.–9:45 a.m. Break
9:45 a.m.–10:30 a.m. Task Force Recommendation Development Review of Centers of Excellence
10:30 a.m.–11:45 a.m. Task Force Recommendation Development Review of Transition Outcomes, DoD/ VA/Senior Oversight Committee Overall Coordination Between DoD and VA
11:45 a.m.–12:30 p.m. Break for Lunch
12:30 p.m.–1:45 p.m. Task Force Recommendation Development Review of Non-Medical Case Management
1:45 p.m.–2:00 p.m. Break
2:00 p.m.–3:00 p.m. Task Force Recommendation Development Review of Medical Care Case Management
3:00 p.m.–3:15 p.m. Break
3:15 p.m.–4:30 p.m. Task Force Recommendation Development Review of Services for PTSD&TBI
4:30 p.m.–5:15 p.m. Task Force Recommendation Development Review of Interagency Program Office
5:15 p.m.–5:30 p.m. Wrap Up

Day Two: Tuesday, June 11, 2013

8:00 a.m.–8:15 a.m. Administrative
8:15 a.m.–8:30 a.m. Public Forum
8:30 a.m.–9:45 a.m. Task Force Recommendation Developments Review of Support to Family Care Givers
9:45 a.m.–10:00 a.m. Break
10:00 a.m.–11:00 a.m. Task Force Recommendation Development Review of Information Resources
11:00 a.m.–11:15 a.m. Break
11:15 a.m.–12:30 p.m. Task Force Recommendation Development Review of Integrated Disability Evaluation System
12:30 p.m.–1:30 p.m. Break for Lunch
1:30 p.m.–2:30 p.m. Task Force Recommendation Development Review of Legal Support for IDES
2:30 p.m.–2:45 p.m. Break
2:45 p.m.–4:00 p.m. Task Force Recommendation Development Review of Resources for Reserve Components
4:00 p.m.–4:15 p.m. Break
4:15 p.m.–5:00 p.m. Task Force Recommendation Development Review of Vocational Training
5:00 p.m.–5:15 p.m. Wrap Up

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is on a first-come basis.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written statements to the Department of Defense Task Force on the Care, Management, and Transition of Recovering Wounded, Ill, and Injured Members of the Armed Forces about its mission and functions. If individuals are interested in making an oral statement during the Public Forum, a written statement for a presentation of two minutes must be submitted and it must be identified as being submitted for an oral presentation by the person making the submission. Identification information must be provided and, at a minimum, must include a name and a phone number. Individuals may visit the Task Force Web site at *http://dtf.defense.gov/rwtf/* to view the Charter. Individuals making presentations will be notified by Wednesday, June 5, 2013. Oral presentations will be permitted only on Tuesday, June 11, 2013 from 8:15 a.m. to 8:30 a.m. EDT before the Task Force. The number of oral presentations will not exceed ten, with one minute of questions available to the Task Force members per presenter. Presenters should not exceed their two minutes.

Written statements in which the author does not wish to present orally may be submitted at any time or in response to the stated agenda of a planned meeting of the Department of Defense Task Force on the Care, Management, and Transition of Recovering Wounded, Ill, and Injured Members of the Armed Forces.

All written statements shall be submitted to the Designated Federal Officer for the Task Force through the information found in **FOR FURTHER INFORMATION CONTACT**, and this individual will ensure that the written statements are provided to the membership for their consideration.

Statements, either oral or written, being submitted in response to the agenda mentioned in this notice must be received by the Designated Federal Officer at the address listed in **FOR FURTHER INFORMATION CONTACT** no later than 5:00 p.m. EDT, Friday, May 31, 2013 which is the subject of this notice. Statements received after this date may not be provided to or considered by the Task Force until its next meeting. Please mark mail correspondence as "Time Sensitive for June Meeting."

The Designated Federal Officer will review all timely submissions with the Task Force Co-Chairs and ensure they are provided to all members of the Task Force before the meeting that is the subject of this notice.

Reasonable accommodations will be made for those individuals with disabilities who request them. Requests for additional services should be directed to Ms. Heather Moore, (703) 325–6640, by 5:00 p.m. EDT, Friday, May 31, 2013.

Dated: May 10, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–11524 Filed 5–14–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP13–885–000.

Applicants: Gas Transmission Northwest LLC, Suncor Energy Marketing Inc., Suncor Energy (U.S.A.) Holdings Inc.

Description: Joint Petition of Gas Transmission Northwest LLC, Suncor Energy (U.S.A.) Holdings Inc., and Suncor Energy Marketing Inc. for Authorization or, in the Alternative, Temporary Tariff Waiver.

Filed Date: 5/1/13.

Accession Number: 20130501–5387.

Comments Due: 5 p.m. ET 5/13/13.

Docket Numbers: RP13–890–000.

Applicants: Dominion South Pipeline Company, LP.

Description: DSP–2013 Report of Penalty Revenues.

Filed Date: 5/6/13.
Accession Number: 20130506–5037.
Comments Due: 5 p.m. ET 5/20/13.
Docket Numbers: RP13–891–000.
Applicants: Egan Hub Storage, LLC.
Description: FOSA Modifications May 2013 Filing to be effective 8/1/2013.
Filed Date: 5/8/13.
Accession Number: 20130508–5021.
Comments Due: 5 p.m. ET 5/20/13.
Docket Numbers: RP13–892–000.
Applicants: East Tennessee Natural Gas, LLC.
Description: FOSA Modifications May 2013 Filing to be effective 8/1/2013.
Filed Date: 5/8/13.
Accession Number: 20130508–5022.
Comments Due: 5 p.m. ET 5/20/13.
Docket Numbers: RP13–893–000.
Applicants: Saltville Gas Storage Company L.L.C.
Description: FOSA Modifications May 2013 Filing to be effective 8/1/2013.
Filed Date: 5/8/13.
Accession Number: 20130508–5023.
Comments Due: 5 p.m. ET 5/20/13.
Docket Numbers: RP13–894–000.
Applicants: Steckman Ridge, LP.
Description: FOSA Modifications May 2013 Filing to be effective 8/1/2013.
Filed Date: 5/8/13.
Accession Number: 20130508–5024.
Comments Due: 5 p.m. ET 5/20/13.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP13–117–003.
Applicants: Columbia Gas Transmission, LLC.
Description: NAESB 2.0—Waiver 5.4.16 Removal Request to be effective 12/1/2012.
Filed Date: 5/7/13.
Accession Number: 20130507–5125.
Comments Due: 5 p.m. ET 5/20/13.
Docket Numbers: RP13–121–003.
Applicants: Crossroads Pipeline Company.
Description: NAESB Waiver Removal to be effective 12/1/2012.
Filed Date: 5/7/13.
Accession Number: 20130507–5124.
Comments Due: 5 p.m. ET 5/20/13.
Docket Numbers: RP13–122–003.
Applicants: Central Kentucky Transmission Company.
Description: NAESB Waiver Removal to be effective 12/1/2012.
Filed Date: 5/7/13.
Accession Number: 20130507–5126.
Comments Due: 5 p.m. ET 5/20/13.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, and service 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: May 8, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–11548 Filed 5–14–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: CP13–333–000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: Application of Transcontinental Gas Pipe Line Company, LLC to partially abandon service to Piedmont Natural Gas under Rate Schedule FT.
Filed Date: 4/30/13.
Accession Number: 20130430–5211.
Comments Due: 5 p.m. ET 5/15/13.
Docket Numbers: RP13–870–000.
Applicants: TC Offshore LLC.
Description: TC Offshore LLC Annual Operational Purchases and Sales of Gas Report.
Filed Date: 4/30/13.
Accession Number: 20130430–5540.
Comments Due: 5 p.m. ET 5/13/13.
Docket Numbers: RP13–884–000.
Applicants: Northern Natural Gas Company.
Description: Petition for a Limited Waiver of Northern's FERC Gas Tariff to allow resolution of an imbalance with the imbalance to storage mechanism for Minnesota Energy Resources Corporation.
Filed Date: 5/2/13.
Accession Number: 20130502–5074.
Comments Due: 5 p.m. ET 5/14/13.
Docket Numbers: RP13–886–000.
Applicants: Southern Natural Gas Company, L.L.C.
Description: Rate Case Settlement to be effective 9/1/2013.
Filed Date: 5/2/13.
Accession Number: 20130502–5136.
Comments Due: 5 p.m. ET 5/14/13.
Docket Numbers: RP13–887–000.
Applicants: Natural Gas Pipeline Company of America.
Description: Expired/Expiring Agreements to be effective 6/3/2013.
Filed Date: 5/3/13.
Accession Number: 20130503–5088.
Comments Due: 5 p.m. ET 5/15/13.
Docket Numbers: RP13–888–000.
Applicants: Alliance Pipeline L.P.
Description: May 7–16 2013 Auction to be effective 5/7/2013.
Filed Date: 5/3/13.
Accession Number: 20130503–5097.
Comments Due: 5 p.m. ET 5/15/13.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP12–955–005.
Applicants: CenterPoint Energy—Mississippi River T.
Description: MRT Correction to Motion Rate Filing to be effective 3/1/2013.
Filed Date: 5/3/13.
Accession Number: 20130503–5038.
Comments Due: 5 p.m. ET 5/15/13.
Docket Numbers: RP13–861–001.
Applicants: Trailblazer Pipeline Company LLC.
Description: Trailblazer Pipeline Company LLC submits tariff filing per 154.205(b): FTB Compliance to RP13–861 and RP13–240 to be effective 5/1/2013.
Filed Date: 5/3/13.
Accession Number: 20130503–5146.
Comments Due: 5 p.m. ET 5/15/13.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date. The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing

requirements, interventions, protests, and service 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 May 06, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–11547 Filed 5–14–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER13–1303–000]

Utility Bid USA, LLC: Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding, of Utility Bid USA, LLC's application for market-based rate authority, with an accompanying rate schedule, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability is May 29, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*. or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 9, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–11543 Filed 5–14–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD12–12–000]

Coordination Between Natural Gas and Electricity Markets; Notice of Commission Meeting

Take notice that, pursuant to the Commission order issued on November 15, 2012,[1] a representative from each regional transmission organization (RTO) and independent system operator (ISO) will appear before the Federal Energy Regulatory Commission (Commission) on May 16, 2013, from 1:30 p.m. (EST) to 3:30 p.m. (EST), to share information related to natural gas and electric coordination. The meeting will be held at the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. All interested persons are invited to attend the meeting, and no advance registration is necessary. Commission members will be present.

Following a series of regional technical conferences conducted in August 2012, the Commission issued an order directing further conferences and reports in the above captioned docket on November 15, 2012. In the November 15 Order, the Commission directed each RTO and ISO to appear before the Commission on May 16, 2013 to share its experiences from the winter and spring and describe the progress it has made in refining existing practices to provide better coordination between the natural gas and electric industries and ensure adequate fuel supplies. The Commission also directed RTOs and ISOs to address any natural gas transportation concerns that emerged during the winter heating season and identify any fuel-related generator outages during the winter and spring.

This meeting will not be transcribed. However, there will be a free webcast of the meeting. The webcast will allow persons to listen to the meeting, but not participate. Anyone with Internet access who wants to listen to the meeting can do so by navigating to *www.ferc.gov*'s Calendar of Events and locating the meeting in the Calendar. The meeting will contain a link to its webcast. The Capitol Connection provides technical support for the webcast and offers the option of listening to the meeting via phone-bridge for a fee. If you have any questions, visit *www.CapitolConnection.org* or call 703–993–3100.[2]

Information on the meeting will also be posted on the Web site *http://www.ferc.gov/industries/electric/indus-act/electric-coord.asp*, as well as the Calendar of Events on the Commission's Web site, *http://www.ferc.gov*, prior to the meeting.

Commission meetings are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or (202) 208–1659 (TTY), or send a FAX to (202) 208–2106 with the required accommodations.

For more information about the meeting, please contact:

Caroline Daly (Technical Information), Office of Energy Policy and Innovation, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8931, *Caroline.Daly@ferc.gov*.

Sarah McKinley (Logistical Information), Office of External Affairs, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8004, *Sarah.McKinley@ferc.gov*.

Dated: May 9, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–11544 Filed 5–14–13; 8:45 am]

BILLING CODE 6717–01–P

[1] *Coordination between Natural Gas and Electricity Markets*, 141 FERC ¶ 61,125, at P 11 (2012) (November 15 Order).

[2] The webcast will continue to be available on the Calendar of Events on the Commission's Web site *www.ferc.gov* for three months after the meeting.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting Notice

The following notice of meeting is published pursuant to section 3(a) of the government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: May 16, 2013, 10:00 a.m.

PLACE: Room 2C, 888 First Street NE., Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note: Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kimberly D. Bose, Secretary, Telephone (202) 502–8400.

For a recorded message listing items struck from or added to the meeting, call (202) 502–8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all documents relevant to the items on the agenda. All public documents, however, may be viewed on line at the Commission's Web site at *http://www.ferc.gov* using the eLibrary link, or may be examined in the Commission's Public Reference Room.

994th—Meeting

Regular Meeting

May 16, 2013 10 a.m.

Item No.	Docket No.	Company
	ADMINISTRATIVE	
A–1	AD02–1–000	Agency Business Matters.
A–2	AD02–7–000	Customer Matters, Reliability, Security and Market Operations.
A–3	AD06–3–000	Market Update.
A–4	AD05–9–000	Energy Market and Reliability Assessment.
	ELECTRIC	
E–1	ER13–193–000 ER13–196–000.	ISO New England Inc.
E–2	ER13–64–000	PacifiCorp.
	ER13–65–000	Deseret Generation & Transmission Cooperative, Inc.
	ER13–67–000	NorthWestern Corporation.
	ER13–68–000	Portland General Electric Company.
	ER13–127–000	Idaho Power Company.
E–3	OMITTED	
E–4	OA12–1–000	SU FERC, L.L.C.
E–5	RM12–22–000	Reliability Standards for Geomagnetic Disturbances.
E–6	ER11–4338–000	New York Independent System Operator, Inc.
E–7	EL12–35–000	Midwest Independent Transmission System Operator, Inc. ALLETE, Inc. Ameren Illinois Company. Ameren Transmission Company of Illinois. American Transmission Company, LLC. Big Rivers Electric Corporation. Board of Water, Electric and Communications Trustees of the City of Muscatine, Iowa. Central Minnesota Municipal Power Agency. City of Columbia, Missouri, Water & Light Company. City Water, Light & Power (Springfield, Illinois). Duke Energy Indiana, Inc. Dairyland Power Cooperative. Great River Energy. Hoosier Energy Rural Electric Cooperative, Inc. Indiana Municipal Power Agency. Indianapolis Power & Light Company. International Transmission Company. ITC Midwest, LLC. Michigan Electric Transmission Company, LLC. Michigan Public Power Agency. Michigan South Central Power Agency. MidAmerican Energy Company. Missouri River Energy Services. Montana-Dakota Utilities Company. Montezuma Municipal Light & Power. Municipal Electric Utility of the City of Cedar Falls, Iowa. Muscatine Power and Water. Northern Indiana Public Service Company. Northern States Power Company, a Minnesota Corporation. Northern States Power Company, a Wisconsin Corporation. Northwestern Wisconsin Electric Company.

Item No.	Docket No.	Company
		Otter Tail Power Company.
		Southern Illinois Power Cooperative.
		Southern Indiana Gas & Electric Company.
		Southern Minnesota Municipal Power Agency.
		Tipton Municipal Utilities.
		Wabash Valley Power Association, Inc.
		Wolverine Power Marketing Cooperative, Inc.
E–8	RM12–1–000	Transmission Planning Reliability Standards.
	RM13–9–000	
E–9	RM13–6–000	Electric Reliability Organization Interpretation of Specific Requirements of the Disturbance Control Performance Standard.
E–10	ER13–1133–000	Southern California Edison Company.
E–11	ER13–1121–000	Peetz Logan Interconnect, LLC.
E–12	ER05–1065–013	Entergy Services, Inc.
	OA07–32–012	
	ER12–1071–000	Entergy Arkansas, Inc.
E–13	OMITTED	
E–14	ES13–5–000	ITC Arkansas LLC.
		ITC Louisiana LLC.
		ITC Mississippi LLC.
		ITC Texas LLC.
E–15	ES11–40–002	Entergy Arkansas, Inc.
		Entergy Gulf States Louisiana, L.L.C.
		Entergy Louisiana, L.L.C.
		Entergy Mississippi, Inc.
		Entergy New Orleans, Inc.
		Entergy Texas, Inc.
E–16	ES13–6–000	Transmission Company Arkansas, LLC.
		Transmission Company Louisiana I, LLC.
		Transmission Company Louisiana II, LLC.
		Transmission Company Mississippi, LLC.
		Transmission Company New Orleans, LLC.
		Transmission Company Texas, LLC.
		Entergy Services, Inc.
E–17	OMITTED	
E–18	EL13–14–000	Sierra Pacific Power Company.
		Nevada Power Company.
	EL13–42–000	Cargill Power Markets, LLC v. NV Energy, Inc.
E–19	ER13–830–002	J.P. Morgan Ventures Energy Corporation.
	ER13–830–001	
E–20	ER10–2331–007	J.P. Morgan Ventures Energy Corporation.
	ER10–2343–007	J.P. Morgan Commodities Canada Corporation.
	ER10–2319–006	BE Alabama LLC.
	ER10–2320–006	BE Allegheny LLC.
	ER10–2317–005	BE CA LLC.
	ER10–2322–007	BE Ironwood LLC.
	ER10–2324–006	BE KJ LLC.
	ER10–2325–005	BE Louisiana LLC.
	ER10–2332–006	BE Rayle LLC.
	ER10–2326–007	Cedar Brakes I, L.L.C.
	ER10–2327–008	Cedar Brakes II, L.L.C.
	ER10–2328–006	Central Power & Lime LLC.
	ER11–4609–005	Triton Power Michigan LLC.
	ER10–2330–007	Utility Contract Funding, L.L.C.
E–21	RM04–7–010	Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities.
E–22	RM10–20–001	Market-Based Rate Affiliate Restrictions.
E–23	ER12–1265–002	Midwest Independent Transmission System Operator, Inc.
	ER12–1265–003	
	ER09–1049–006	
E–24	ER12–1266–003	Midwest Independent Transmission System Operator, Inc.
E–25	ER07–682–004	Entergy Services, Inc.
E–26	ER11–2161–002	Entergy Services, Inc.

GAS

G–1	RM12–15–000	Filing, Indexing and Service Requirements for Oil Pipelines.
G–2	RP13–464–000	Tennessee Gas Pipeline Company, L.L.C.
G–3	RP09–995–003	Sea Robin Pipeline Company, LLC.

Item No.	Docket No.	Company
	RP09–995–004 RP10–422–001 RP10–422–003 RP12–313–003 RP12–469–001	
G–4	IS12–390–001	SFPP, L.P.
G–5	IS12–501–001	SFPP, L.P.
G–6	IS12–503–001	NuStar Logistics, L.P.
HYDRO		
H–1	P–2149–154	Public Utility District No. 1 of Douglas County, Washington.
H–2	P–12595–003 P–12604–003	Greybull Valley Irrigation District.
CERTIFICATES		
C–1	CP12–30–001	Transcontinental Pipe Line Company, LLC.
C–2	CP12–72–001	Dominion Transmission, Inc.

Issued: May 9, 2013.

Kimberly D. Bose,

Secretary.

A free Web cast of this event is available through *www.ferc.gov*. Anyone with Internet access who desires to view this event can do so by navigating to *www.ferc.gov*'s Calendar of Events and locating this event in the Calendar. The event will contain a link to its webcast. The Capitol Connection provides technical support for the free webcasts. It also offers access to this event via television in the DC area and via phone bridge for a fee. If you have any questions, visit *www.CapitolConnection.org* or contact Danelle Springer or David Reininger at 703–993–3100.

Immediately following the conclusion of the Commission Meeting, a press briefing will be held in the Commission Meeting Room. Members of the public may view this briefing in the designated overflow room. This statement is intended to notify the public that the press briefings that follow Commission meetings may now be viewed remotely at Commission headquarters, but will not be telecast through the Capitol Connection service.

[FR Doc. 2013–11666 Filed 5–13–13; 4:15 pm]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2013–0054; FRL–9383–9]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Chemical Substances Inventory (TSCA Inventory)) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. In addition under TSCA, EPA is required to publish in the **Federal Register** a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish in the **Federal Register** periodic status reports on the new chemicals under review and the receipt of notices of commencement (NOC) to manufacture those chemicals. This document, which covers the period from February 11, 2013 to March 8, 2013, and provides the required notice and status report, consists of the PMNs and TMEs, both pending or expired, and the NOC to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

DATES: Comments identified by the specific PMN number or TME number, must be received on or before June 14, 2013.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2013–0054, and the specific PMN number or TME number for the chemical related to your comment, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery:* OPPT Document Control Office (DCO), EPA East Bldg., Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: EPA's policy is that all comments received will be included in the docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or email. The 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 regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the 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 docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Bernice Mudd, Information Management Division (7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8951; fax number: (202) 564–8955; email address: *mudd.bernice@epa.gov*.

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the PMNs addressed in this action.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Why is EPA taking this action?

EPA classifies a chemical substance as either an "existing" chemical or a "new" chemical. Any chemical substance that is not on EPA's TSCA Inventory is classified as a "new chemical," while those that are on the TSCA Inventory are classified as an "existing chemical." For more information about the TSCA Inventory go to: *http://www.epa.gov/opptintr/newchems/pubs/inventory.htm*. Anyone who plans to manufacture or import a new chemical substance for a non-exempt commercial purpose is required by TSCA section 5 to provide EPA with a PMN, before initiating the activity. Section 5(h)(1) of TSCA authorizes EPA to allow persons, upon application, to manufacture (includes import) or process a new chemical substance, or a chemical substance subject to a significant new use rule (SNUR) issued under TSCA section 5(a), for "test marketing" purposes, which is referred to as a test marketing exemption, or TME. For more information about the requirements applicable to a new chemical go to: *http://www.epa.gov/oppt/newchems*.

Under TSCA sections 5(d)(2) and 5(d)(3), EPA is required to publish in the **Federal Register** a notice of receipt of a PMN or an application for a TME and to publish in the **Federal Register** periodic status reports on the new chemicals under review and the receipt of NOCs to manufacture those chemicals. This status report, which covers the period from February 11, 2013 to March 8, 2013, consists of the PMNs and TMEs, both pending or expired, and the NOCs to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Reports

In Table I. of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: The EPA case number assigned to the PMN, the date the PMN was received by EPA, the projected end date for EPA's review of the PMN, the submitting manufacturer/importer, the potential uses identified by the manufacturer/importer in the PMN, and the chemical identity.

TABLE I—88 PMNS RECEIVED FROM 2/11/13 TO 3/11/13

Case No.	Received date	Projected notice end date	Manufacturer/Importer	Use	Chemical
P–13–0250	2/4/2013	5/4/2013	CBI	(G) Pigment additive	(G) Oxiranylpropyl silsesquioxanes hydroxy terminated.
P–13–0251	2/4/2013	5/4/2013	CBI	(G) Pigment additive	(G) Aminopropyl silsesquioxanes hydroxy terminated.
P–13–0252	2/4/2013	5/4/2013	International Flavors & Fragrances, Inc.	(S) Fragrance ingredient for use in fragrances for soaps, detergents, cleaners and other household products.	(S) 4,7-Methano-1*H*-inden-5-ol, octahydro-2,4,5- trimethyl-.
P–13–0253	2/4/2013	5/4/2013	Dow Chemical Company	(S) Organic marker for petroleum products.	(G) Tritylated ether.
P–13–0254	2/4/2013	5/4/2013	Dow Chemical Company	(S) Organic marker for petroleum products.	(G) Tritylated ether.
P–13–0255	2/4/2013	5/4/2013	Dow Chemical Company	(S) Organic marker for petroleum products.	(G) Tritylated ether.
P–13–0256	2/4/2013	5/4/2013	Dow Chemical Company	(S) Organic marker for petroleum products.	(G) Tritylated ether.
P–13–0257	2/4/2013	5/4/2013	Dow Chemical Company	(S) Organic marker for petroleum products.	(G) Tritylated ether.
P–13–0258	2/4/2013	5/4/2013	Dow Chemical Company	(S) Organic marker for petroleum products.	(G) Tritylated ether.
P–13–0259	2/5/2013	5/5/2013	CBI	(S) Extreme pressure, anti-wear additive for greases and oils containing the PMN substance and sulfurized isobutylene.	(G) Antimony tris(dialkyldithiocarbamate).
P–13–0260	2/5/2013	5/5/2013	CBI	(S) Extreme pressure, anti-wear additive for greases and oils containing the PMN substance and process oil; extreme pressure, anti-wear additive for greases and oil containing the PMN substance and sulfurized isobutylene.	(G) Zinc bis(dialkyldithiocarbamate).
P–13–0261	2/5/2013	5/5/2013	CBI	(G) Destructive use	(G) Organometallic polymerization catalyst.
P–13–0262	2/5/2013	5/5/2013	CBI	(S) Coatings additive	(G) Epoxysilane homopolymer.
P–13–0263	2/6/2013	5/6/2013	Sika Corporation	(G) Adhesive	(G) Epoxy adduct.
P–13–0264	2/6/2013	5/6/2013	CBI	(G) Fragrance material for highly dispersive use.	(G) Isomers of aliphatic substituted quinoline.
P–13–0265	2/7/2013	5/7/2013	CBI	(G) Ingredient used in coatings.	(G) Substituted propenoic acid, alkyl ester, polymer with alkyl propenoate, carbomonocycle, substituted alkyl propenoate, substituted alkyl propenoate, 2-propenoic acid and alkyl carbopolycyclic ester, tert-bu peroxide-initiated, compounds with triethanolamine.
P–13–0266	2/7/2013	5/7/2013	CBI	(G) Fire-retardant for polycarbonate.	(G) Heteromonocycle, decasubstituted.
P–13–0267	2/8/2013	5/8/2013	Croda, Inc.	(G) Polymer additive	(G) Fatty acid amide.
P–13–0268	2/8/2013	5/8/2013	CBI	(G) Adhesive formulation additive.	(G) Rosin ester cycloadduct.
P–13–0269	2/8/2013	5/8/2013	CBI	(G) Polyol component for polyurethane production.	(G) Alkoxylated alcohol.
P–13–0270	2/11/2013	5/11/2013	Dow Chemical Company	(G) Catalyst component	(G) Aromatic dibenzoate.
P–13–0271	2/12/2013	5/12/2013	CBI	(S) Polyurethane prepolymer for binder applications.	(G) Aliphatic polyester polyol.
P–13–0272	2/12/2013	5/12/2013	CBI	(S) Polyurethane prepolymer for binder applications.	(G) Aliphatic polyester polyol.

TABLE I—88 PMNs RECEIVED FROM 2/11/13 TO 3/11/13—Continued

Case No.	Received date	Projected notice end date	Manufacturer/Importer	Use	Chemical
P–13–0273	2/12/2013	5/12/2013	CBI	(S) Polyurethane prepolymer for binder applications.	(G) Aliphatic polyester polyol.
P–13–0274	2/12/2013	5/12/2013	CBI	(S) Polyurethane prepolymer for binder applications.	(G) Aliphatic polyester polyol.
P–13–0275	2/12/2013	5/12/2013	CBI	(S) Polyurethane prepolymer for binder applications.	(G) Aliphatic polyester polyol.
P–13–0276	2/12/2013	5/12/2013	CBI	(S) Polyurethane prepolymer for binder applications.	(G) Aliphatic polyester polyol.
P–13–0277	2/12/2013	5/12/2013	Scott Bader, Inc.	(G) Fabrication of composite articles.	(G) Unsaturated urethane methacrylate.
P–13–0278	2/12/2013	5/12/2013	Dow Chemical U.S.A.	(S) Component rigid polyurethane foam for appliances.	(G) Reaction of product of benzene dicarboxylic acid, polyether polyol and propylene oxide.
P–13–0279	2/12/2013	5/12/2013	CBI	(G) Additive, open, non-dispersive use.	(G) Poly(ethylenoxide-co-(2-ethylhexyl)glycidether-co-cresylglycidether).
P–13–0280	2/12/2013	5/12/2013	CBI	(G) Additive, open, non-dispersive use.	(G) Poly(ethylenoxide-co-(2-ethylhexyl)glycidether-co-cresylglycidether).
P–13–0281	2/13/2013	5/13/2013	DIC International (USA), LLC.	(G) Sizing agent	(G) Silated polyether type polyurethane resin.
P–13–0282	2/13/2013	5/13/2013	DIC International (USA), LLC.	(G) A component for the building paint material.	(G) Trifluoroethene polymer with, 4-(ethenyloxy)-1-butanol, olefin copolymers and amine.
P–13–0283	2/13/2013	5/13/2013	CBI	(G) Additive, open, non-dispersive use.	(G) Polyakylene glycol methyl-2-propenoate, polymer with alkyl-substituted 2-propenoate.
P–13–0284	2/13/2013	5/13/2013	DIC International (USA), LLC.	(G) A component of building paint material.	(G) Trifluoroethene polymer with, 4-(ethenyloxy)-1-butanol, ethene, ethoxy- and olefin ethoxy copolymer.
P–13–0285	2/15/2013	5/15/2013	CBI	(G) Used in the manufacture of an article.	(G) Polyamic acid.
P–13–0286	2/14/2013	5/14/2013	CBI	(G) Polyol monomer	(G) Soybean oil polyol.
P–13–0287	2/15/2013	5/15/2013	CBI	(G) Curing agent; starting material for curing agent.	(G) Cyanoethylated diamine.
P–13–0288	2/15/2013	5/15/2013	CBI	(G) Polymer precursor—site limited.	(G) Fluorinated diamine.
P–13–0289	2/15/2013	5/15/2013	CBI	(G) Additive component to engine lubricants.	(G) Alkanoic acid, tetramethylheteromonocycle ester.
P–13–0290	2/18/2013	5/18/2013	Infineum USA, L.P.	(G) Component in fuel additive.	(G) Copolymer of alkyl methacrylate and substituted amino alkyl methacrylate.
P–13–0291	2/18/2013	5/18/2013	CBI	(S) Epoxy curing agent	(G) Formaldehyde, polymer with 2-(chloromethyl)oxirane, cycloaliphatic amine, 4,4'-(1-methylethylidene)bis[phenol] and 2-methylphenol.
P–13–0292	2/18/2013	5/18/2013	CBI	(G) Open, non-dispersive.	(G) Organophosphorus polymer.
P–13–0293	2/18/2013	5/18/2013	Dow Chemical Company	(S) Oilfield demulsifier	(G) Epoxy adduct alkoxylate.
P–13–0294	2/18/2013	5/18/2013	CBI	(S) Coatings crosslinker	(S) 1,3-Propanetriol, 2-ethyl-2-(hydroxymethyl)-, polymer with 1,3-diisocyanatomethylbenzene,.alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)] and.alpha.,.alppha.',.alpha.-1.
P–13–0295	2/19/2013	5/19/2013	CBI	(S) Rheology modifier	(G) Rubber epoxy adduct.
P–13–0296	2/19/2013	5/19/2013	CBI	(G) Coatings for textile	(G) Polyurethane dispersion water.

TABLE I—88 PMNS RECEIVED FROM 2/11/13 TO 3/11/13—Continued

Case No.	Received date	Projected notice end date	Manufacturer/Importer	Use	Chemical
P–13–0297	2/19/2013	5/19/2013	Mane, USA	(S) Fragrance ingredient in a consumer product; fragrance in a consumer product; fragrance in a consumer product.	(S) 9-Decen-2-one.
P–13–0298	2/19/2013	5/19/2013	Cytec Industries, Inc.	(G) Resin for non-dispersive uses.	(G) Alkenoic acid, polymer with alkadiene and alkenenitrile, substituted alkyl-terminated, polymers with substituted carbomonocycles, alkoxy-terminated-substituted alkyl-alkadiene polymer, substituted carbomonocycle and halogen substituted carbomonocycle.
P–13–0299	2/19/2013	5/19/2013	CBI	(G) Production aid in refinery operations.	(G) Furandione derivative reaction products.
P–13–0300	2/20/2013	5/20/2013	Henkel Corporation	(S) Site limited isolated intermediate.	(S) 4,7-Methano-1*H*-indene-2,6-dicarboxylic acid, 3a,4,7,7a-tetrahydro-.
P–13–0301	2/21/2013	5/21/2013	CBI	(S) Impact modifier for plastics compounding.	(G) Acrylate polymer.
P–13–0302	2/21/2013	5/21/2013	CBI	(G) Contained use, lighting component.	(G) Inorganic rare earth compound.
P–13–0303	2/21/2013	5/21/2013	Infineum USA, L.P.	(G) Chemical components for fuel and fuel additives.	(G) Substituted phenol formaldehyde polymer.
P–13–0304	2/21/2013	5/21/2013	Apollo Chemical	(S) Acid donor for dyeing nylon and nylon containing fabrics.	(S) Ethanol, 2,2'-oxybis-,1,1'-diformate.
P–13–0305	2/21/2013	5/21/2013	3M Company—group compliance 3m automotive and chemical markets group.	(G) Intermediate	(G) Fluorinated ester.
P–13–0306	2/21/2013	5/21/2013	Kimberly-Clark Corporation.	(G) Binder for fiber (open, non-dispersive use).	(G) Acrylic copolymer.
P–13–0307	2/21/2013	5/21/2013	CBI	(G) Component of manufactured consumer article—contained use.	(G) Substituted carbocycle, *N*-[[[4-[[(4-substituted carbocyclic)amino]sulfonyl]carbocyclic]amino]carbonyl]-4-methyl-.
P–13–0308	2/22/2013	5/22/2013	Dow Chemical Company	(S) Frother in mining; intermediate or raw material to manufacture mining frother.	(S) 4-Nonanone, 2,6,8-trimethyl-, manufactured of, by-products from, distant residues.
P–13–0309	2/22/2013	5/22/2013	Huntsman Corporation	(S) Component of a pigment dispersant blend for inks and coatings.	(S) Alcohols, C_{9-11}-branched, ethoxylated propoxylated.
P–13–0310	2/22/2013	5/22/2013	CBI	(S) Polymer intermediate	(G) Substituted polyurethane polymer.
P–13–0311	2/22/2013	5/22/2013	CBI	(G) An open, non-dispersive use.	(G) Styrene maleic acid ester copolymer.
P–13–0312	2/25/2013	5/25/2013	CBI	(S) Waterborne acrylic resin for use in coatings.	(G) Waterborne acrylic.
P–13–0313	2/25/2013	5/25/2013	CBI	(G) Protective coating	(G) 1,3-Isobenzofurandione, 5,5'-[(1-methylethylidene)bis(4,1-phenyleneoxy)]bis, polymer with 3,3'-[1,3-phenylenebis(oxy)]bis[benzenamine,], sulfonylbis[aminophenol] and 3,3'-(1,1,3,3-tetramethyl-1,3-disiloxanediyl)bis[1-propanamine], reaction products with arylamine.
P–13–0314	2/26/2013	5/26/2013	Gelest, Inc.	(S) Research; various typical silicone applications, e.g. lubricant additive to paints, waxes.	(S) Siloxanes and silicones, di-me, bu group-terminated.

TABLE I—88 PMNS RECEIVED FROM 2/11/13 TO 3/11/13—Continued

Case No.	Received date	Projected notice end date	Manufacturer/Importer	Use	Chemical
P–13–0315	2/27/2013	5/27/2013	CBI	(G) Printing additive	(G) 1,4-Benzenedicarboxylic acid, polymer with substituted-2,5-furandione, carboxylic acid, substituted carbomonocycle ethoxylated, substituted carbomonocycle propoxylated and polyol.
P–13–0316	2/27/2013	5/27/2013	CBI	(G) Structural material (open, non-dispersive).	(G) Copolymer of methacryclic acid derivatives.
P–13–0317	2/27/2013	5/27/2013	CBI	(G) Additive, open, non-dispersive.	(G) Polyether ester.
P–13–0318	3/1/2013	5/29/2013	CBI	(G) Industrial feedstock chemical.	(G) Glycerides, C_{14-18}, C_{16}–C_{18} unsaturated, from fermentation.
P–13–0319	3/1/2013	5/29/2013	CBI	(G) Industrial feedstock chemical.	(G) Glycerides, C_{14-18}, C_{16}-C_{18} unsaturated, from fermentation.
P–13–0320	3/1/2013	5/29/2013	Nippon Kayaku America, Inc..	(S) Insulator for power capacitors.	(G) Substituted dicarboxylic acid, polymer with substituted benzenamine and substituted dicarboxylic acid.
P–13–0321	2/28/2013	5/28/2013	International Flavors & Fragrances, Inc.	(S) Fragrance ingredient for use in fragrances for soaps, detergents, cleaners and other household products.	(S) 5*H*-Cyclopenta[h]quinazoline, 6,7,8,9-tetrahydro-7,7,8,8,9,9-pentamethyl-.
P–13–0322	3/5/2013	6/2/2013	CBI	(G) Adhesive	(G) Substituted carboxylic acid, polymer with alkanediol, substituted alkylakane, substituted carbomonocycle and sodium substituted alkyl amino alkanessulfonate (1:1).
P–13–0323	3/5/2013	6/2/2013	CBI	(G) Additive for foam applications.	(G) Phosphonic acid, [1[(5,5-dialkyl-2-substituted-substituted heteromonocycle]-1-alkyl]-, dialkyl ester.
P–13–0324	3/5/2013	6/2/2013	Alberdingk Boley Inc.	(S) Wood coatings; plastics coatings; leather and textile impregnation.	(G) Castor oil, dehydrated, polymer with alkyldioic acid, polymer with alkyl diols, hydroxy(hydroxymethyl) akylylpropanoic acid, methylenebis [isocyanatocycloalkane] and alkyl glycol.
P–13–0325	3/5/2013	6/2/2013	Alberdingk Boley, Inc.	(S) Wood coatings; plastics coatings; leather and textile impregnation.	(G) Castor oil, dehydrated, polymer with di-alkyl carbonate, alkyl diamine, alkyl diol, dihydroxyalkyl carboxylic acid and methylenebis [isocyanatocycloalkane]-, compound with trialkylamine.
P–13–0326	3/5/2013	6/2/2013	Alberdingk Boley, Inc.	(S) Wood coatings; plastics coatings; leather and textile impregnation.	(G) Castor oil, dehydrated, polymer with alkyl diamine, dihydroxyalkyl carboxylic acid, aromatic azinetriamine, methylenebis [isocyanatocycloalkane]-, compounds with trialkylamine.
P–13–0327	3/5/2013	6/2/2013	Alberdingk Boley, Inc.	(S) Wood coatings; plastics coatings; leather and textile impregnation.	(G) Castor oil, dehydrated, polymer with alkyldioic acid, alkyldiamine, alkyldiol, dihydroxyalkyl carboxylic acid, methylenebis [isocyanatocyclohexane], alkyl glycol, and polyethylene glycol bis(hydroxymethyl)alkyl me ether, compound with trialkyl amine.
P–13–0328	3/5/2013	6/2/2013	CBI	(G) Ingredient used in coatings.	(G) Hexanedioic acid, polymer with alkyl diols, 1,3-isobenzofuranedione, aliphatic diisocyanates, hydroxyalkyl substituted propanediol, hydroxyalkylpropanoic acid, compound with (dimethylamino)ethanol.
P–13–0329	3/5/2013	6/2/2013	Firmenich Incorporated	(S) Fragrance material	(S) Olive leaf extract.

TABLE I—88 PMNs RECEIVED FROM 2/11/13 TO 3/11/13—Continued

Case No.	Received date	Projected notice end date	Manufacturer/Importer	Use	Chemical
P–13–0330	3/5/2013	6/2/2013	Alberdingk Noley, Inc. ...	(S) Coating for leather and textiles.	(G) Fatty acids, C_{18}, dimers, dialkyl esters, hydrogenated, polymers with alkanedioic acid, 1,3-bis-(isocyanato-1-alkyl)benzene, 3-hydroxy-2-(hydroxymethyl)-2-alkylpropenoic acid, 1,1'-methylenebis [isocyanatocycloalkane], neopentyl glycol and oxepanone compounds with trialkyl amine.
P–13–0331	3/6/2013	6/3/2013	Wansheng Material Science (USA) Co., Ltd.	(S) Flame retardant	(S) Phosphoric acid, *P,P'*-(oxydi-2,1-ethanediyl) *P, P, P',P''*-tetrakis(2-chloro-1-methylethyl) ester.
P–13–0332	3/7/2013	6/4/2013	Alberdingk Boley, Inc. ...	(S) Wood coatings	(G) Propenoic acid ester, polymer with *N*-(dimethyloxoalkyl)alkylamide, alkyl propenoate and alkyl alkyl propenoate.
P–13–0333	3/7/2013	6/4/2013	Alberdingk Boley, Inc. ...	(S) Wood coatings	(G) Propenoic acid ester, polymer with *N*-(dimethyloxoalkyl)alkylamide, alkyl propenoate, alkyl alkyl propenoate and alkyl alkyldiyl bis(alkyl propenoate).
P–13–0334	3/7/2013	6/4/2013	Alberdingk Boley, Inc. ...	(S) Wood coatings	(G) Propenoic acid ester, polymer with alkyl propenoate, *N*-(dimethyloxoalkyl)alkylamide, alkenylbenzene, alkyl propenoate, and alkyl alkyldiyl propenoate.
P–13–0335	3/7/2013	6/4/2013	Alberdingk Boley, Inc. ...	(S) Wood coatings	(G) Propenoic acid ester, polymer with alkyl propenoate, *N*-(dimethyloxoalkyl)alkylamide, alkenylbenzene and alkyl alkyl propenoate.
P–13–0336	3/7/2013	6/4/2013	Mane, USA	(S) Fragrance added to a consumer product; fragrance within a consumer product; fragrance within a consumer product.	(S) Acetonitrile, 2-(2,4,4-trimethylcyclopentylidene)-.
P–13–0337	2/20/2013	5/20/2013	CBI	(G) Floor care product ...	(G) Fatty acid phthalate alkyd polymer.

In Table II. of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the TMEs received by EPA during this period: The EPA case number assigned to the TME, the date the TME was received by EPA, the projected end date for EPA's review of the TME, the submitting manufacturer/importer, the potential uses identified by the manufacturer/importer in the TME, and the chemical identity.

TABLE II–2 TMEs RECEIVED FROM 2/11/13 TO 3/08/13

Case No.	Received date	Projected notice end date	Manufacturer/Importer	Use	Chemical
T–13–0008.	2/19/2013	4/4/2013	Cytec Industries, Inc.	(G) Resin for non-dispersive uses.	(G) Alkenoic acid, polymer with alkadiene and alkenenitrile, substituted alkyl-terminated, polymers with substituted carbomonocycles, alkoxy-terminated-substituted alkyl-alkadiene polymer, substituted carbomonocycle and halogen subsituted carbomonocycle.
T–13–0009.	2/19/2013	4/4/2013	CBI	(G) Production aid in refinery operations.	(G) Furandione derivative reaction products.

In Table III. of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the NOCs received by EPA during this period: The EPA case number assigned to the NOC, the date

the NOC was received by EPA, the projected end date for EPA's review of the NOC, and chemical identity.

TABLE III—50 NOCS RECEIVED FROM 2/11/13 TO 3/08/13

Case No.	Received date	Commencement notice end date	Chemical
P–06–0784	2/21/2013	2/1/2013	(S) 1,4-Benzenedicarboxylic acid, dibutyl ester.
P–07–0289	3/1/2013	4/14/2008	(G) Isocyanate-terminated polyether polyester polyurethane.
P–09–0369	2/25/2013	2/22/2013	(G) Acrylated acrylic copolymer.
P–09–0413	2/15/2013	1/26/2013	(G) Formaldehyde, reaction products with alkylphenol, alkylamine, phenol polyalkylene derivs.
P–09–0653	2/15/2013	1/25/2013	(G) Alkyl-dihydro-dialkyl-benzoxazine.
P–10–0305	2/18/2013	2/2/2013	(S) Acetic acid ethenyl ester, polymer with ethane and methyl 2-methyl-2-propenoate.
P–11–0313	2/26/2013	2/7/2013	(G) Hexanedioic acid, polymer with a-hydro-w-hydroxypoly [oxy (methyl-1,2-ethanediyl)], 1,1'-methylenebis[4-isocyanatobenzene], and dihydroxydialkyl ether, reaction products with dialkylcarbinol.
P–11–0391	2/26/2013	2/25/2013	(G) Polyether phosphate.
P–11–0505	2/15/2013	2/8/2013	(G) Polyester polymer.
P–12–0274	2/19/2013	12/5/2012	(G) Polyisocyanate adduct.
P–12–0370	2/16/2013	1/19/2013	(G) Phenyl silsesquioxane copolymer.
P–12–0379	2/13/2013	1/18/2013	(G) Alkyl zinc halide.
P–12–0431	2/18/2013	1/27/2013	(G) Phosphazene.
P–12–0478	3/5/2013	2/6/2013	(G) Amine salted polyurethane.
P–12–0500	2/22/2013	2/7/2013	(G) Hexanedioc acid, polymer with 2-(chloromethyl)oxirane polymer with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol, alkanedioic acid, 4,4'-(1-methylethylidene)bis[phenol] and oxirane 2-propenoate, 2,2-dimethyl-1,3-propanediol, 1,2-ethanediamine, 1,6-hexanediol, 3-hydroxy-2-(hydroxymethyl)-2-methylpropanoic acid and 5-isocyanato1–1(isocyanatomethyl)-alkylcyclohexane, compound with *N,N*-diethylethanamine.
P–12–0512	2/18/2013	2/15/2013	(G) Ultra violet curable polyurethane acrylate.
P–12–0538	2/12/2013	2/4/2013	(S) 2-Propenoic acid, 2-cyano-, 1-methylheptyl ester.
P–12–0569	2/12/2013	2/5/2013	(S) 1-(Bis(2-hydroxyethyl)amino)-3-chloro-2-propanol.
P–12–0574	2/25/2013	1/29/2013	(G) Carbopolycycle-bis(diazonium), dihalo, chloride (1:2), reaction products with metal chloride, calcium carbonate, *N*-(2,4-dialkylphenyl)-oxoalkanamide, potassium 4-[dioxoalkylamino] substituted benzene (1:1) and sodium hydroxide.
P–13–0007	2/25/2013	2/8/2013	(G) Acrylic acids, polymer with methacrylate esters. styrene and tert-bubenzene carboperoxoate-initiated, compounds with amine.
P–13–0009	2/22/2013	2/18/2013	(G) Acrylate functional aliphatic isocyanate polymer blocked with hydroxy aromatic monomer.
P–13–0011	2/22/2013	2/20/2013	(G) Hydroxy-functional epoxyamine polyglycol ester.
P–13–0012	2/21/2013	2/17/2013	(S) 2-Octenenitrile,3,5,7-trimethyl-.
P–13–0017	2/25/2013	2/8/2013	(G) Acrylated silicone polymer.
P–13–0018	3/1/2013	2/6/2013	(G) Trisodium diethylene triaminepolycarboxylate.
P–13–0043	3/5/2013	2/14/2013	(S) D-glucopyranose, oligomeric, decyl octyl glycosides, 3-(dodecyldimethylammonio)-2-hydroxypropyl ethers, chlorides, polymers with 1,3-dichloro-2-propanol.
P–13–0044	2/25/2013	1/30/2013	(G) Fatty acid amine.
P–13–0045	2/25/2013	1/30/2013	(G) Fatty acid amine.
P–13–0046	2/25/2013	1/28/2013	(G) Fatty acid amine.
P–13–0048	2/25/2013	2/7/2013	(G) Fatty acid amine.
P–13–0049	2/25/2013	2/8/2013	(G) Fatty acids, polymer with acrylic acid, epoxy resin, methacrylate esters, styrene and vegetable-oil fatty acids, tert-bu benzenecarboperoxoate-initiated, compounds with amine.
P–13–0052	2/28/2013	2/15/2013	(G) Cyclohexyl methacrylic acids, polymer with methacrylate esters, acrylic esters, methacrylate polyester polyol, styrene and tert-bu benzenecarboperoxoate-initiated, compounds with amine.
P–13–0054	3/4/2013	2/8/2013	(S) 1-piperazine ethanamine, acetate (1:3) Ethanamine, 2,2'-oxybis-, acetate Morpholine, acetate (1:1).
P–13–0057	2/28/2013	2/15/2013	(G) Acrylic polymer with 2-propenoic acid, 2-methyl-, butyl ester, methacrylic acid esters, acrylic acid esters and alkyl polyester ether acrylate.
P–13–0063	2/25/2013	1/30/2013	(G) Fatty acid amine hydrochloride.
P–13–0064	2/25/2013	2/1/2013	(G) Fatty acid amide hydrochloride.
P–13–0065	2/25/2013	1/30/2013	(G) Fatty acid amide hydrochloride.
P–13–0066	2/25/2013	1/30/2013	(G) Fatty acid amine hydrochloride.
P–13–0067	2/25/2013	2/7/2013	(G) Fatty acid amide hydrochloride.
P–13–0068	2/25/2013	1/30/2013	(G) Fatty acid amine hydrochloride.
P–13–0072	2/25/2013	2/1/2013	(G) Fatty acid amide hydrochloride.
P–13–0073	2/25/2013	2/1/2013	(G) Fatty acid amide hydrochloride.
P–13–0075	2/25/2013	2/1/2013	(G) Fatty acid amide hydrochloride.
P–13–0076	2/25/2013	2/1/2013	(G) Fatty acid amide hydrochloride.
P–13–0077	2/25/2013	2/7/2013	(G) Fatty acid amide hydrochloride.
P–13–0078	3/1/2013	2/28/2013	(G) Tertiary amine alkyl ether.

TABLE III—50 NOCs RECEIVED FROM 2/11/13 TO 3/08/13—Continued

Case No.	Received date	Commencement notice end date	Chemical
P–13–0084	2/27/2013	2/22/2013	(G) Alkane diacid, polymer with 2,2-dimethyl-1,3-propanediol, 1,2-ethanediol, hexanedioic acid, alkanediol, .alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)], 1,3-isobenzofurandione, 1,1'-methylenebis[4-isocyanatobenzene] and 2,2'-oxybis[ethanol].
P–13–0090	2/12/2013	2/6/2013	(G) Alkenenitrile, polymer with alkadiene, substituted alkyl-terminated, polymers with substituted carbonomocycles, alkoxy-terminated-substituted alkyl-alkadiene polymer, substituted carbomoncycle and halogen substituted carbomonocycle.
P–13–0096	3/7/2013	3/6/2013	(G) Alkenoic acid, reaction product with alkylpolyol, polymers with substituted heteromonocycle.
P–13–0098	3/1/2013	2/27/2013	(G) Modified polyarylamide salt.

If you are interested in information that is not included in these tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available.

List of Subjects

Environmental protection, Chemicals, Hazardous substances, Imports, Notice of commencement, Premanufacturer, Reporting and recordkeeping requirements, Test marketing exemptions.

Dated: April 29, 2013.

Chandler Sirmons,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2013–11507 Filed 5–14–13; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Advisory Committee Meeting

ACTION: Notice of Open Meeting of the Advisory Committee of the Export-Import Bank of the United States (Ex-Im Bank).

Time and Place: Wednesday, May 29, 2013 from 11:00 a.m. to 3:00 p.m. The meeting will be held at the Export-Import Bank in Room 326, 811 Vermont Avenue NW., Washington, DC 20571.

SUMMARY: The Advisory Committee was established November 30. 1983, to advise the Export-Import Bank on its programs and to provide comments for inclusion in the reports of the Export-Import Bank of the United States to Congress.

Agenda: Agenda items include briefings and discussions on the following topics: Ex-Im Bank business review. Ex-Im Bank 2012 draft competitiveness report and Advisory Committee letter statement on the findings of the draft competitiveness report, and Ex-Im Bank economic impact policy update.

Public Participation: The meeting will be open to public participation, and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. If members of the public wish to attend, they must contact Niki Shepperd by 5pm on May 28, 2013. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, by March 19, 2013, Niki Shepperd. Niki Shepperd can be reached at: 811 Vermont Avenue NW., Washington, DC 20571, Voice: (202) 565–3202 or TDD (202) 565–3377.

FOR FURTHER INFORMATION CONTACT: For further information, contact Niki Shepperd, 811 Vermont Ave. NW., Washington, DC 20571, (202) 565–3202.

Cristopolis A. Dieguez,

Program Specialist, Office of the General Counsel.

[FR Doc. 2013–11514 Filed 5–14–13; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501—3520), the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before July 15, 2013. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA questions to Judith B. Herman, Federal Communications Commission. To submit your PRA comments by email send them to: PRA@fcc.gov.

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, (202) 418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0742.

Title: Sections 52.21 through 52.36, Telephone Number Portability, 47 CFR Part 52, Subpart (C) and CC Docket No. 95–116.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 3,616 respondents; 10,001,890 responses.

Estimated Time per Response: 2 hours to 410 hours.

Frequency of Response: On occasion and one time reporting requirements, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151, 152, 154(i), 201–205, 215, 251(b)(2), 251(e)(2) and 332 of the Communications Act of 1934, as amended.

Total Annual Burden: 672,516 hours.

Total Annual Cost: $13,424,320.

Privacy Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential information to the Commission. If the respondents wish confidential treatment of their information, they may request confidential treatment under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this expiring information collection after this comment period to obtain the full, three year clearance from the Office of Management and Budget (OMB). There is no change to the reporting, recordkeeping and/or third party disclosure requirements. There is no change in the Commission's previous burden hour and cost estimates.

Section 251(b)(2) of the Communications Act of 1934, as amended, requires LECs to "provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission." Through the LNP process, consumers have the ability to retain their phone number when switching telecommunications service providers, enabling them to choose a provider that best suits their needs and enhancing competition. In the *Porting Interval Order and Further Notice*, the Commission mandated a one business day porting interval for simple wireline-to-wireline and intermodal port requests.

The information collected in the standard local service request data fields is necessary to complete simple wireline-to-wireline and intermodal ports within the one business day porting interval mandated by the Commission and will be used to comply with Section 251 of the Telecommunications Act of 1996.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–11496 Filed 5–14–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501—3520), the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before July 15, 2013. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA questions to Judith B. Herman, Federal Communications Commission. To submit your PRA comments by email send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, (202) 418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0710.

Title: Policy and Rules Under Parts 1 and 51 Concerning the Implementation of the Local Competition Provisions in the Telecommunications Act of 1996—CC Docket No. 96–98.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 15,282 respondents; 1,067,987 responses.

Estimated Time per Response: .50 hours to 4,000 hours.

Frequency of Response: On occasion reporting requirement, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 1–4, 201–205, 214, 224, 251, 303(r) and 601 of the Communications Act of 1934, as amended.

Total Annual Burden: 645,798 hours.

Total Annual Cost: N/A.

Privacy Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential information to the Commission. If the respondents wish confidential treatment of their information, they may request confidential treatment under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this expiring information collection after this comment period to obtain the full, three year clearance from the Office of Management and Budget (OMB). The Commission is reporting no change in the recordkeeping, reporting and/or third party disclosure requirements. There is no change in the Commission's previous (2010) burdens.

The Commission adopted rules in this information collection to implement the First Report and Order on Reconsideration issued in CC Docket No. 96–98 implementing parts of sections 251 and 252 of the Telecommunications Act of 1996 that affect local competition. Incumbent local exchange carriers (LECs) are required to offer interconnection, unbundled network elements (UNEs), transport and termination, and wholesale rates for certain services to new entrants. Incumbent LECS must price such services and rates that are cost-based and just and reasonable and provide access to right-of-way as well as

establish reciprocal compensation arrangements for the transport and termination of telecommunications traffic.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–11495 Filed 5–14–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before July 15, 2013. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at 202–395–5167 or via Internet at *Nicholas_A._Fraser@omb.eop.gov*. To submit your PRA comments to the FCC by email send them to: *PRA@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, FCC, Office of Managing Director, (202) 418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0950.

Title: Bidding Credits for Tribal Lands.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 5 respondents; 5 responses.

Estimated Time per Response: 10 hours to 180 hours.

Frequency of Response: On occasion reporting requirement and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. sections 151, 154(i), 303(r), and 303(j)(3) and (4) of the Communications Act of 1934, as amended.

Total Annual Burden: 1,000 hours.

Total Annual Cost: $180,000.

Privacy Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality

Needs and Uses: The Commission will be submitting this expiring information collection after this comment period to the Office of Management and Budget (OMB) for approval of an extension request (no change in the public reporting and/or recordkeeping requirements).

From June 2000 to August 2004, the Commission adopted various rulemakings in which a winning bidder seeking a bidding credit to serve a qualifying tribal land within a particular market must:

- Indicate on the long-form application (FCC Form 601) that it intends to serve a qualifying tribal land within that market;
- Within 180 days after the filing deadline for the long-form application, amend its long-form application to identify the tribal land it intends to serve and attach a certification from the tribal government stating that:

(a) The tribal government authorizes the winning bidder to site facilities and provide service on its tribal land;

(b) The tribal area to be served by the winning bidder constitutes qualifying tribal land;

(c) The tribal government has not and will not enter into an exclusive contract with the applicant precluding entry by other carriers, and will not unreasonably discriminate among wireless carriers seeking to provide service on the qualifying tribal land; and

(d) Provide certification of the telephone penetration rates demonstrating that the tribal land has a penetration level at or below 85 percent.

The rulemakings also require what each winning bidder must do.

In addition, it also requires that a winning bidder seeking a credit in excess of the amount calculated under the Commission's bidding credit must submit certain information; and a final winning bidder receiving a higher credit must provide within 15 days of the third anniversary of the initial grant of its license, file a certification that the credit amount was spent on infrastructure to provide wireless coverage to qualifying tribal lands, which also includes a final report prepared by an independent auditor verifying that the infrastructure costs are reasonable to comply with our build-out requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–11497 Filed 5–14–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on the agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of the agreement are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202)–523–5793 or *tradeanalysis@fmc.gov*.

Agreement No.: 012207.

Title: CMA CGM/APL Slot Exchange Agreement, North Europe & Westmed—U.S. Gulf and East Coast.

Parties: CMA CGM S.A. and American President Lines, Ltd; and APL Co. Pte Ltd. (acting as a single party).

Filing Party: Draughn Arbona, Esq.; Associate Counsel & Environmental Officer; CMA CGM (America) LLC; 5701 Lake Wright Drive; Norfolk, VA 23502.

Synopsis: The agreement would authorize the parties to exchange space

with each other in the trade between the U.S. East and Gulf Coasts on the one hand, and Netherlands, Germany, Belgium, the United Kingdom, Morocco, Malta, Italy, France, Portugal, and Spain on the other hand. The parties have requested expedited review.

Dated: May 10, 2013.

By Order of the Federal Maritime Commission.

Karen V. Gregory,

Secretary.

[FR Doc. 2013–11556 Filed 5–14–13; 8:45 am]

BILLING CODE 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 June 10, 2013.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. *SCBT Financial Corporation,* Columbia, South Carolina; to merge with First Financial Holdings, Inc., and thereby indirectly acquire First Federal Bank, both in Charleston, South Carolina.

In connection with this application, Applicant also has applied to acquire First Southeast 401(k) Fiduciaries, Inc., and First Southeast Investor Services, Inc., both in Charleston, South Carolina, and thereby engage in securities brokerage and financial and investment advisory activities, pursuant to sections 225.28(b)(6) and (b)(7), respectively.

Board of Governors of the Federal Reserve System, May 10, 2013.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2013–11532 Filed 5–14–13; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

State Median Income Estimates for a Four-Person Household: Notice of the Federal Fiscal Year (FFY) 2014 State Median Income Estimates for Use Under the Low Income Home Energy Assistance Program (LIHEAP)

AGENCY: Division of Energy Assistance, Office of Community Services; Administration for Children and Families; Health and Human Services.

ACTION: Notice of state median income estimates for FFY 2014.

SUMMARY: This notice announces to grantees of the Low Income Home Energy Assistance Program (LIHEAP) the estimated median income of four-person households in each state and the District of Columbia for FFY 2014 (October 1, 2013, to September 30, 2014). LIHEAP grantees that choose to base their income eligibility criteria on these state median income (SMI) estimates may adopt these estimates (up to 60 percent) on their date of publication in the **Federal Register** or on a later date as discussed in the "Dates" section. This enables grantees to implement this notice during the period between the heating and cooling seasons. However, by October 1, 2013, or the beginning of the grantee's fiscal year, whichever is later, such grantees must adjust their income eligibility criteria so that they are in accord with the FFY 2014 SMI.

Sixty percent of SMI provides one of the maximum income criteria that LIHEAP grantees may use in determining a household's income eligibility for LIHEAP.

DATES: *Effective Date:* These estimates become effective at any time between the date of this publication and the later of (1) October 1, 2013; or (2) the beginning of a grantee's fiscal year.

FOR FURTHER INFORMATION CONTACT: Peter Edelman, Office of Community Services, Division of Energy Assistance, 5th Floor West, 370 L'Enfant Promenade SW., Washington, DC 20447. Telephone: (202) 401–5292, E-Mail: *peter.edelman@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the provisions of section 2603(11) of Title XXVI of the Omnibus Budget Reconciliation Act of 1981, Public Law 97–35, as amended, the Department of Health and Human Services (HHS) announces the estimated median income of four-person families for each state, the District of Columbia, and the United States for FFY 2014 (October 1, 2013, through September 30, 2014).

Section 2605(b)(2)(B)(ii) of this Act provides that 60 percent of the median income of four-person families for each state and the District of Columbia (state median income or SMI), as annually established by the Secretary of Health and Human Services, is one of the income criteria that LIHEAP grantees may use in determining a household's eligibility for LIHEAP.

LIHEAP was last authorized by the Energy Policy Act of 2005, Public Law 109–58, which was enacted on August 8, 2005. This authorization expired on September 30, 2007, and reauthorization remains pending.

The SMI estimates that HHS publishes in this notice are 3-year estimates derived from the American Community Survey (ACS) conducted by the U.S. Census Bureau, U.S. Department of Commerce (Census Bureau).

For additional information about the ACS state median income estimates, including the definition of income and the derivation of medians see *http://www.census.gov/acs/www/Downloads/data_documentation/SubjectDefinitions/2011_ACSSubjectDefinitions.pdf* under "Income in the Past 12 Months." For additional information about the ACS 1-year and 3-year estimates, see *http://www.census.gov/acs/www/guidance_for_data_users/estimates/.* For additional information about the ACS in general, see *http://www.census.gov/acs/www/* or contact the Census Bureau's Social, Economic, and Housing Statistics Division at (301) 763–3243.

The SMI estimates, like those derived from any survey, are subject to two types of errors:

(1) Non-sampling Error, which consists of random errors that increase the variability of the data and non-

random errors that consistently shift the data in a specific direction; and

(2) Sampling Error, which consists of the error that arises from the use of probability sampling to create the sample. For additional information about the accuracy of the ACS SMI estimates, see *http://www.census.gov/acs/www/Downloads/data_documentation/Accuracy/MultiyearACSAccuracyofData2011:pdf.*

In the state-by-state listing of SMI and 60 percent of SMI for a four-person family for FFY 2014, LIHEAP grantees must regard "family" to be the equivalent of "household" with regards to setting their income eligibility criteria. This listing describes the method for adjusting SMI for households of different sizes, as specified in regulations applicable to LIHEAP (45 CFR 96.85(b)). These regulations were published in the **Federal Register** on March 3, 1988, (53 FR 6827) and amended on October 15, 1999 (64 FR 55858).

Dated: May 8, 2013.

Jeannie L. Chaffin,

Director, Office of Community Services.

ESTIMATED STATE MEDIAN INCOME FOR FOUR-PERSON FAMILIES, BY STATE, FOR FEDERAL FISCAL YEAR (FFY) 2014, FOR USE IN THE LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)

States	Estimated state median income for four-person families [1]	60 percent of estimated state median income for four-person families [2, 3]
Alabama	$64,899	$38,939
Alaska	87,726	52,636
Arizona	64,434	38,660
Arkansas	56,994	34,196
California	77,679	46,607
Colorado	84,431	50,659
Connecticut	103,173	61,904
Delaware	83,557	50,134
District of Columbia	87,902	52,741
Florida	65,406	39,244
Georgia	67,401	40,441
Hawaii	85,350	51,210
Idaho	61,724	37,034
Illinois	81,770	49,062
Indiana	70,504	42,302
Iowa	76,905	46,143
Kansas	74,073	44,444
Kentucky	65,968	39,581
Louisiana	68,964	41,378
Maine	74,481	44,689
Maryland	105,348	63,209
Massachusetts	102,773	61,664
Michigan	73,354	44,012
Minnesota	87,283	52,370
Mississippi	57,662	34,597
Missouri	70,896	42,538
Montana	68,905	41,343
Nebraska	74,484	44,690
Nevada	69,475	41,685
New Hampshire	94,838	56,903
New Jersey	103,852	62,311
New Mexico	57,353	34,412
New York	83,648	50,189
North Carolina	66,985	40,191
North Dakota	82,605	49,563
Ohio	73,924	44,354
Oklahoma	63,580	38,148
Oregon	69,573	41,744
Pennsylvania	80,937	48,562
Rhode Island	87,793	52,676
South Carolina	62,965	37,779
South Dakota	71,207	42,724
Tennessee	64,042	38,425
Texas	66,880	40,128
Utah	68,017	40,810
Vermont	81,408	48,845
Virginia	90,109	54,065
Washington	83,238	49,943
West Virginia	63,863	38,318
Wisconsin	79,141	47,485
Wyoming	76,868	46,121

Note: FFY 2014 covers the period of October 1, 2013, through September 30, 2014. The estimated median income for four-person families living in the United States for this period is $75,845. Grantees that use SMI for LIHEAP may, at their option, employ such estimates at any time between the date of this publication and the later of October 1, 2013, or the beginning of their fiscal years.

[1] These figures were prepared by the U.S. Census Bureau, U.S. Department of Commerce (Census Bureau), from 3-year estimates from the 2009, 2010, and 2011 American Community Surveys (ACSs). These estimates, like those derived from any survey, are subject to two types of error: (1) Non-sampling Error, which consists of random errors that increase the variability of the data and non-random errors that consistently direct the data in a specific direction; and (2) Sampling Error, which consists of the error that arises from the use of probability sampling to create the sample.

[2] These figures were calculated by the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services, Division of Energy Assistance by multiplying the estimated state median income for a four-person family for each state by 60 percent.

[3] To adjust for different sizes of households for LIHEAP purposes, 45 CFR 96.85 calls for multiplying 60 percent of a state's estimated median income for a four-person family by the following percentages: 52 percent for a one-person household, 68 percent for a two-person household, 84 percent for a three-person household, 100 percent for a four-person household, 116 percent for a five-person household, and 132 percent for a six-person household. For each additional household member above six people, 45 CFR 96.85 calls for adding 3 percentage points to the percentage for a six-person household (132 percent) and multiply the new percentage by 60 percent of the median income for a four-person family.

[FR Doc. 2013–11575 Filed 5–14–13; 8:45 am]
BILLING CODE 4184–24–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Initial Review Group; Interventions Committee for Adult Disorders.

Date: June 3–4, 2013.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: David I. Sommers, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6154, MSC 9606, Bethesda, MD 20892–9606, 301–443–7861, *dsommers@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Initial Review Group; Mental Health Services Research Committee.

Date: June 6, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Dupont Hotel, 1500 New Hampshire Avenue NW, Washington, DC 20036.

Contact Person: Aileen Schulte, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6136, MSC 9606, Bethesda, MD 20852, 301–443–1225, *aschulte@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Initial Review Group; Interventions Committee for Disorders Involving Children and Their Families.

Date: June 10, 2013.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Marina Broitman, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6143, MSC 9606, Bethesda, MD 20892–9606, 301–402–8152, *mbroitma@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: May 9, 2013.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–11501 Filed 5–14–13; 8:45 am]
BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Language and Communication.

Date: June 5, 2013.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Biao Tian, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3089B, MSC 7848, Bethesda, MD 20892, (301) 402–4411, *tianbi@csr.nih.gov*.

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group Chemo/Dietary Prevention Study Section.

Date: June 6, 2013.

Time: 7:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Marriott, 1221 22nd Street NW., Washington, DC 20037.

Contact Person: Sally A Mulhern, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6198, MSC 7804, Bethesda, MD 20892, (301) 408–9724, *mulherns@csr.nih.gov*.

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group, Clinical Oncology Study Section.

Date: June 10, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Crowne Plaza Tyson's Corner, 1960 Chain Bridge Road, Mclean, VA 22102.

Contact Person: Malaya Chatterjee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6192, MSC 7804, Bethesda, MD 20892, 301–806–2515, *chatterm@csr.nih.gov*.

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group, Community Influences on Health Behavior.

Date: June 10, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Delfina Santa Monica Hotel, 530 West Pico Boulevard, Santa Monica, CA 90405.

Contact Person: Wenchi Liang, Ph.D., Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3150, MSC 7770, Bethesda, MD 20892, 301–435–0681, *liangw3@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflicts: Biobehavioral Regulation.

Date: June 11, 2013.

Time: 9:00 a.m. to 9:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Maribeth Champoux, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7848, Bethesda, MD 20892, 301–594–3163, *champoum@csr.nih.gov.*

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group, Cancer Immunopathology and Immunotherapy Study Section.

Date: June 13, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.

Contact Person: Denise R Shaw, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6158, MSC 7804, Bethesda, MD 20892, 301–435–0198, *shawdeni@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: Non-HIV Microbial Vaccine Development.

Date: June 14, 2013.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Mayflower Park Hotel, 405 Olive Way, Seattle, WA 98101.

Contact Person: Scott Jakes, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4198, MSC 7812, Bethesda, MD 20892, 301–495–1506, *jakesse@mail.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Clinical Research and Field Studies of Infectious Diseases Study Section.

Date: June 14, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites DC Convention Center, 900 10th St. NW., Washington, DC 20001.

Contact Person: Soheyla Saadi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3211, MSC 7808, Bethesda, MD 20892, 301–435–0903, *soodisoh@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group Language and Communication Study Section

Date: June 14, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, DC 20036.

Contact Person: Weijia Ni, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7848, Bethesda, MD 20892, (301) 237–9918, *niw@csr.nih.gov.*

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group, Kidney Molecular Biology and Genitourinary Organ Development.

Date: June 14, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Ryan G Morris, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4205, MSC 7814, Bethesda, MD 20892, 301–435–1501, *morrisr@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 9, 2013.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–11491 Filed 5–14–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Cancellation of Meeting

Notice is hereby given of the cancellation of the Center for Scientific Review Special Emphasis Panel, June 06, 2013, 12:00 p.m. to June 06, 2013, 3:00 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on May 9, 2013, 78 FR 27244.

The meeting is cancelled due to the reassignment of applications.

Dated: May 9, 2013.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–11492 Filed 5–14–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Initial Review Group; Training and Workforce Development Subcommittee—C.

Date: June 24–25, 2013.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Mona R. Trempe, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.12, Bethesda, MD 20892–4874, 301–594–3998, *trempemo@mail.nih.gov.*

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; COBRE I 2013.

Date: June 25–26, 2013.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Lee Warren Slice, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3As.19A, Bethesda, MD 20892–4874, 301–435–0807, *slicelw@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: May 9, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–11494 Filed 5–14–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences; Initial Review Group, Training and Workforce Development Subcommittee—A.

Date: June 19, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: John J. Laffan, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.18J, Bethesda, MD 20892–4874, 301–594–2773, *laffanjo@mail.nih.gov.*

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel COBRE.

Date: June 20–21, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: DoubleTree by Hilton Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Lisa A. Newman, SCD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3As.19K, Bethesda, MD 20892–4874, 301–594–2704, *newmanla2@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: May 9, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–11493 Filed 5–14–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Request for Comment on Proposed Methods for Avoiding Duplication, Redundancy and Competition With Industry Activities

SUMMARY: The National Institutes of Health (NIH) National Center for Advancing Translational Sciences (NCATS) invites comments regarding proposed methods it will use to avoid duplication, redundancy and competition with industry activities.

DATES: Comments regarding the proposed methods are due within 30 days of the date of this publication in the **Federal Register**.

ADDRESSES: Comments regarding the proposed methods should be sent to *comment@ncats.nih.gov.*

SUPPLEMENTARY INFORMATION: The Public Health Service Act indicates that the purpose of the National Center for Advancing Translational Sciences (NCATS) is to advance translational sciences by coordinating and developing resources that leverage basic research in support of translational science; and by developing partnerships and working cooperatively to foster synergy in ways that do not create duplication, redundancy and competition with industry activities.

Proposed Methods: In order to avoid duplication, redundancy and competition with industry activities, NCATS proposes to use one or more of the following methods that will allow the public, including industry, to be aware of its current activities and to have the opportunity to provide input: (1) Frequent updates to the NCATS Web site (*www.ncats.nih.gov*), which includes the NCATS Director's message and/or blog, listings of ongoing programs and projects, and notifications of solicitations for funding proposals for which industry may be eligible; (2) open public meetings to gather input on NCATS plans, priorities, and programs to which industry representatives are specifically invited; (3) discussion and gathering input on NCATS plans, priorities, and programs of NCATS activities and concept clearances at the regular meetings of the NCATS Advisory Council and Cures Acceleration Network Review Board, which include members of the biotechnology, pharmaceutical, and venture capital communities; (4) meetings to gather input on NCATS plans, priorities, and programs with industry organizations including, but not limited to, the Pharmaceutical Research and Manufacturers of America (PhRMA), the Biotechnology Industry Organization (BIO), and the National Venture Capital Association (NVCA); (5) regular presentations to and panel discussions with industry representatives at public conferences; (6) demonstration of non-redundancy with industry projects as a selection criterion for relevant NCATS projects; (7) promotion of partnerships through the publication of notices in the **Federal Register** seeking partners in Collaborative Research and Development Agreements (CRADAs) to facilitate the development and commercialization of technologies; (8) publication of Requests for Information on NCATS plans, priorities, and programs in the **Federal Register** and NIH Guide; (9) sponsorship of regular workshops to identify priorities and solutions of topics related to translational science; and (10) periodic release of the NCATS e-newsletter, distribution of emails to NCATS stakeholder listservs, and announcements on NCATS Facebook page and through the NCATS Twitter account. In addition, the community will be able to inquire and comment on NCATS activities at any time by sending an email to *info@ncats.nih.gov.*

FOR FURTHER INFORMATION CONTACT: For further details please contact Stephen Seidel, Acting Director, Office of Policy, National Center for Advancing Translational Sciences, NIH, 6701 Democracy Blvd., Suite 900, Bethesda, MD 20892–4874; 301–435–0866; Email: *seidels@mail.nih.gov.*

Dated: May 8, 2013.

Christopher P. Austin,

Director, National Center for Advancing Translational Sciences, National Institutes of Health.

[FR Doc. 2013–11526 Filed 5–14–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2013–0231]

Merchant Marine Personnel Advisory Committee: Intercessional Meeting

AGENCY: Coast Guard, DHS.

ACTION: Notice of Federal advisory committee working group meeting.

SUMMARY: A working group of the Merchant Marine Personnel Advisory Committee (MERPAC) will meet to work on Task Statement 83, entitled "Development of competency requirements to meet the provisions of Table A–III/2 of the Convention on the Standards of Training, Certification and Watchkeeping (1978), as amended (STCW), for personnel working on small vessels with high horsepower." This meeting will be open to the public.

DATES: A MERPAC working group will meet on June 11, 2013, and June 12, 2013, from 8 a.m. until 4 p.m. Please note that the meeting may adjourn early if all business is finished. Written comments to be distributed to working group members and placed on MERPAC's Web site are due by May 28, 2013.

ADDRESSES: The working group will meet at U.S. Coast Guard Headquarters, Room 6103, 2100 Second St. SW., Washington, DC 20593. Attendees will be required to provide a picture identification card and pass through a magnetometer in order to gain admittance to the Coast Guard Headquarters Building. Visitors should also arrive at least 30 minutes in advance of the meeting in case of long lines at the entrance.

For further information about the Coast Guard facilities or services for individuals with disabilities or to request special assistance, contact Mr. Davis Breyer at (202) 372–1445 or *davis.j.breyer@uscg.mil.*

To facilitate public participation, we are inviting public comment on the issues to be considered by the working group, which are listed in the "Agenda" section below. Written comments must be identified by Docket No. USCG–2013–0231 and may be submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments (preferred method to avoid delays in processing).
- *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.

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.*

This notice may be viewed in our online docket, USCG–2013–0231, at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Davis Breyer, Alternate Designated Federal Officer of MERPAC, telephone 202–372–1445. If you have any 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 (FACA), 5 U.S.C. App. (Pub. L. 92–463).

MERPAC is an advisory committee authorized under section 871 of the Homeland Security Act of 2002, Title 6, United States Code, section 451, and chartered under the provisions of the FACA. The Committee acts solely in an advisory capacity to the Secretary of the Department of Homeland Security (DHS) through the Commandant of the Coast Guard and the Director of Commercial Regulations and Standards on matters relating to personnel in the U.S. merchant marine, including but not limited to training, qualifications, certification, documentation, and fitness standards. The Committee will advise, consult with, and make recommendations reflecting its independent judgment to the Secretary.

Agenda

Day 1

The agenda for the June 11, 2013, working group meeting is as follows:

(1) Develop competency requirements to meet the provisions of Table A–III/2 of the STCW for personnel working on small vessels with high horsepower;

(2) Public comment period;

(3) Discuss and prepare proposed recommendations for the full committee to consider with regards to Task Statement 83, entitled "Development of competency requirements to meet the provisions of Table A–III/2 of the STCW for personnel working on small vessels with high horsepower"; and

(4) Adjournment of meeting.

Day 2

The agenda for the June 12, 2013, working group meeting is as follows:

(1) Continue discussion on proposed recommendations;

(2) Public comment period;

(3) Discuss and prepare final recommendations for the full committee to consider with regards to Task Statement 83, entitled "Development of competency requirements to meet the provisions of Table A–III/2 of the STCW for personnel working on small vessels with high horsepower"; and

(4) Adjournment of meeting.

Procedural: A copy of all meeting documentation, including the Task Statement, is available at *https://homeport.uscg.mil* by using these key strokes: Missions; Ports and Waterways; Safety Advisory Committees; MERPAC; and then use the event key. Alternatively, you may contact Mr. Breyer as noted in the **ADDRESSES** section above.

Public oral comment periods will be held during the working group meeting. Speakers are requested to limit their comments to 3 minutes. Please note that the public oral comment periods may end before the prescribed ending time following the last call for comments. Contact Davis Breyer as indicated above no later than June 4, 2013 to register as a speaker.

Dated: May 8, 2013.

J.G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2013–11531 Filed 5–14–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5600–FA–30]

Announcement of Funding Awards for the Public and Indian Housing Resident Opportunity and Self-Sufficiency (ROSS) Service Coordinators Grant Program Fiscal Year 2012

AGENCY: Office of the Assistant Secretary for the Office of Public and Indian Housing, 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 a competition for funding under the Fiscal Year 2012 Notice of Funding Availability (NOFA) for the Resident Opportunity and Self-Sufficiency (ROSS)—Service Coordinators Program for Fiscal Year 2012. This announcement contains the consolidated names and addresses of those award recipient selected for funding based on the funding priority categories established in the NOFA.

FOR FURTHER INFORMATION CONTACT: Joseph E. Taylor, Grants Management Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW., B–133 Potomac Center, 3rd Floor, Washington, DC 20410, telephone 202–475–8852. Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Relay Service at 800–877–8339. (Other than the "800 TTY number, these telephone numbers are not toll-free).

SUPPLEMENTARY INFORMATION: The purpose of the Public and Indian Housing ROSS Service Coordinators program is to provide grants to public housing agencies (PHAs), tribes/tribally designated housing entities (TDHEs), Resident Associations (RAs), and nonprofit organizations (including grassroots, faith-based and other community-based organizations) for the provision of a Service Coordinator to coordinate supportive services and other activities designed to help Public and Indian housing residents attain economic and housing self-sufficiency. This program works to promote the development of local strategies to coordinate the use of assistance under the Public Housing program with public and private resources, for supportive services and resident empowerment activities. A Service Coordinator ensures that program participants are linked to the supportive services they need to achieve self-sufficiency or remain independent.

On February 15, 2012, HUD posted its FY 2012 Resident Opportunity and Self-Sufficiency (ROSS) Service Coordinators NOFA. The NOFA made approximately $35 million, plus any carryover or recaptured funds from prior ROSS appropriations, available under the Consolidated and Further Continuing Appropriations Act, 2012 (Pub. L. 112–65, approved November 18, 2011). The Department reviewed and evaluated the applications received based on the criteria published in the FY 2012 NOFA, and has funded the applications announced in Appendix A.

In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of the 113 awards made under the Public and Indian Housing ROSS Service Coordinators Programs competition.

Dated: May 2, 2013.

Sandra B. Henriquez,

Assistant Secretary for Public and Indian Housing.

Appendix A—Fiscal Year 2012 Funding Awards for the Resident Opportunity and Self-Sufficiency (ROSS)—Service Coordinators Program

Recipient	Address	City	State	Zip Code	Amount
Alexander City Housing Authority	2110 County Road	Alexander City	AL	35010	$243,000
Bessemer Non-Profit Development Corporation.	1500 Exeter Avenue	Bessemer	AL	35080	486,000
Mobile Housing Board	151 South Claiborne Street	Mobile	AL	36602	586,191
Tuscaloosa Housing Authority	2808 10th Avenue	Tuscaloosa	AL	35401	243,000
Housing Authority City of Fresno	1331 Fulton Mall	Fresno	CA	93721	243,000
Housing Authority of the City of Oxnard.	435 South D Street	Oxnard	CA	93030	243,000
Housing Authority of the County of Marin.	4020 Civic Center Drive	San Rafael	CA	94903	243,000
Housing Authority of the County of San Diego.	3989 Ruffin Road	San Diego	CA	92123	243,000
Barney Ford Local Resident Council.	2024 Clarkson Street	Denver	CO	80205	200,778
Quigg Newton Homes Local Resident Council.	4407 Mariposa Way	Denver	CO	80211	200,778
Sun Valley Local Resident Council	990 Alcott Way	Denver	CO	80204	200,778
Housing Authority of the City of Hartford.	180 Overlook Terrace	Hartford	CT	6106	480,000
Housing Authority of the City of New Haven.	360 Orange Street	New Haven	CT	6511	486,000
Housing Authority of the City of Norwalk.	24 ½ Monroe Street	Norwalk	CT	6856	243,000
Hialeah Housing Authority	75 East 6th Street	Hialeah	FL	33010	480,000
Housing Authority of The City of Bradenton, Florida.	2002 9th Avenue East	Bradenton	FL	34208	144,000
Housing Authority of the City of Orlando, FL.	390 North Bumby Avenue	Orlando	FL	32803	450,724
Housing Authority of the City of Tampa.	1514 Union Street	Tampa	FL	0	682,560
Housing Authority of Columbus, Georgia.	1000 Wynnton Road	Columbus	GA	31902	383,730
Housing Authority of DeKalb County.	750 Commerce Drive	Decatur	GA	30030	171,000
Housing Authority of Savannah	1407 Wheaton Street	Savannah	GA	31404	243,000

Recipient	Address	City	State	Zip Code	Amount
Housing Authority of The City of Cairo.	P.O. Box 478	Cairo	GA	39828	243,000
Housing Authority of the City of West Point.	P.O. Box 545, 1201 East 12th Street.	West Point	GA	31833	191,565
Housing Authority of the City of Winder.	11 Horton Street	Winder	GA	30680	212,608
Aurora Housing Authority	1630 West Plum Street	Aurora	IL	60506	229,000
Housing Authority of Joliet	6 South Broadway Street	Joliet	IL	60436	243,000
Housing Authority of the City of East St. Louis.	700 North 20th Street	East St. Louis	IL	62205	486,000
City of Wichita Housing Authority	332 North Riverview	Wichita	KS	67203	219,000
Lawrence-Douglas County Housing Authority.	1600 Haskell Avenue	Lawrence	KS	66044	243,000
Housing Authority of Martin	P.O. Box 806, 109 Raymond Griffith Drive, #1101.	Martin	KY	41649	243,000
Housing Authority of Somerset	P.O. Box 449	Somerset	KY	42502	227,378
Housing Authority of the City of Monroe, Inc.	300 Harrison Street	Ouachita	LA	71201	317,049
Boston Housing Authority	52 Chauncy Street	Boston	MA	2111	729,000
Holyoke Housing Authority	475 Maple Street, Suite One	Holyoke	MA	1040	243,000
Medford Housing Authority	121 Riverside Avenue	Medford	MA	2155	243,000
Taunton Housing Authority	30 Olney Street, Suite B	Taunton	MA	2780	243,000
Worcester Housing Authority	40 Belmont Street	Worcester	MA	1605	240,000
Allendale Tenant Council	3600 West Franklin Street	Baltimore	MD	21229	243,000
Brooklyn Homes Tenant Council	4140 Tenth Street	Baltimore	MD	21225	243,000
Housing Authority of Baltimore City.	417 East Fayette Street, Room 923.	Baltimore	MD	21202	729,000
Housing Authority of the City of Frederick.	209 Madison Street	Frederick	MD	21701	216,000
Housing Opportunities Commission of Montgomery County, MD.	10400 Detrick Avenue	Kensington	MD	20895	237,000
J Van Story Branch Tenant Council.	11 West 20th Street	Baltimore	MD	21218	243,000
Morris H Blum Tenant	701 Glenwood Street	Annapolis	MD	21401	243,000
Penobscot Indian Nation	12 Wabanaki Way	Indian Island	ME	4468	243,000
Detroit Housing Commission	1301 East Jefferson	Detroit	MI	48207	711,450
Grand Rapids Housing Commission.	1420 Fuller Avenue, SE	Grand Rapids	MI	49507	229,000
Pokagon Band of Potawatomi Indians.	58620 Sink Road	Dowagiac	MI	49047	243,000
Wayne Metropolitan Community Action Agency.	2121 Biddle Ave, Suite 102	Wyandotte	MI	48192	243,000
Hopkins Housing and Redevelopment Authority.	1010 1st Street South	Hopkins	MN	55343	236,808
Housing Authority of St. Louis Park.	5005 Minnetonka Boulevard	St. Louis Park	MN	55416	243,000
HRA of Alexandria, Minnesota	805 Fillmore Street	Alexandria	MN	56308	243,000
Moorhead Public Housing Agency	800 2nd Avenue North	Moorhead	MN	56560	243,000
Choctaw Housing Authority	P.O. Box 6088, Highway 16 West	Choctaw	MS	39350	243,000
Forest Housing Authority	518 North 4th Avenue	Forest	MS	39074	243,000
Mississippi Regional Housing Authority No. VIII.	P.O. Box 2347, Gulfport, MS 39505, 10430 Three Rivers Road.	Gulfport	MS	39501	243,000
Housing Authority of the City of Asheville.	165 South French Broad Avenue	Asheville	NC	28801	486,000
Housing Authority of the City of Charlotte, NC.	1301 South Boulevard	Charlotte	NC	28203	729,000
Housing Authority of the City of Wilmington, NC.	1524 South 16th Street	Wilmington	NC	28401	486,000
Housing Authority of the City of Winston-Salem.	500 West Fourth Street, Suite 300	Winston-Salem	NC	27101	243,000
Spirit Lake Housing Corporation	P.O. Box 187	Fort Totten	ND	58335	172,569
Enable, Inc	13 Roszel Road, Suite B110	Princeton	NJ	8540	243,000
Housing Authority of Gloucester County.	100 Pop Moylan Boulevard	Deptford	NJ	8096	243,000
Housing Authority of the City of East Orange.	160 Halsted Street	East Orange	NJ	7018	243,000
Housing Authority of the City of Linden.	1601 Dlll Avenue	Linden	NJ	7036	243,000
New Jersey Association of Public and Subsidized Housing.	303 Washington Street, 4th Floor	Newark	NJ	7102	243,000
Pleasantville Housing Authority	156 North Main Street	Pleasantville	NJ	8232	243,000

Recipient	Address	City	State	Zip Code	Amount
Richmond Towers Resident Association.	510–520 East Front Street	Plainfield	NJ	7060	243,000
Adrean-Matt Resident Association	509 Second Street, Suite One	Utica	NY	13501	243,000
Akwesasne Housing Authority	378 State Route 37, Suite A	Hogansburg	NY	13655	243,000
Citywide Council of Low Income Housing Residents.	516 Burt Street	Syracuse	NY	13202	243,000
Citywide Council of Syracuse Low Income Housing Residents.	516 Burt Street	Syracuse	NY	13202	486,000
Curran Court Homes Tenant Council.	1511 Central Park Avenue	Yonkers	NY	10710	243,000
Gillmore-Humphrey Resident Association.	509 Second Street, Suite One	Utica	NY	13501	243,000
Marino-Peretta Resident Association.	509 Second Street, Suite One	Utica	NY	13501	243,000
New Rochelle Municipal Housing Authority.	50 Sickles Avenue	New Rocelle	NY	10801	243,000
New York City Housing Authority	250 Broadway	New York	NY	10007	729,000
Poughkeepsie Housing Authority	4 Howard Street	Poughkeepsie	NY	12601	243,000
Troy Manor Tenant Council	1511 Central Park Avenue	Yonkers	NY	10710	243,000
Walsh Road Homes Tenant Council.	1511 Central Park Avenue	Yonkers	NY	10710	243,000
Dayton Metropolitan Housing Authority.	P.O. Box 8750, 400 Wayne Avenue.	Dayton	OH	45401	692,181
Fairfield Metropolitan Housing Authority.	315 North Columbus Street	Lancaster	OH	43130	172,860
Progressive Action Council	6001 Woodland Avenue	Cleveland	OH	44104	243,000
Housing Authority of the City of Pittsburgh.	200 Ross Street	Pittsburgh	PA	15219	558,545
Housing Authority of the County of Franklin.	436 West Washington Street	Chambersburg	PA	17201	167,716
Mercer County Housing Authority	80 Jefferson Avenue	Sharon	PA	16146	195,000
Ramsey Educational Development Institute (REDI).	1060 1st Avenue, Suite 430	King of Prussia	PA	19406	240,000
Housing Authority of the City of Spartanburg.	201 Caulder Avenue, Suite A	Spartanburg	SC	29306	480,000
Franklin Housing Authority	200 Spring Street	Franklin	TN	37064	200,592
Metropolitan Development and Housing Agency (MDHA).	701 South Sixth Street	Nashville	TN	37206	729,000
Shelbyville Housing Authority	316 Templeton Street	Shelbyville	TN	37160	212,408
Georgetown Housing Authority	210 West 8th Street	Georgetown	TX	78626	186,439
HACA City-Wide Advisory Board	1124 S. IH–35	Austin	TX	78704	486,000
Housing Authority of the City of Kingsville.	1000 West Corral	Kingsville	TX	78363	243,000
Housing Authority of the City of San Antonio.	818 S. Flores Street	San Antonio	TX	78204	621,000
The Housing Authority of the City of Dallas, Texas (DHA).	3939 North Hampton Road	Dallas	TX	75212	699,000
Housing Authority of the County of Salt Lake.	3595 South Main Street	Salt Lake City	UT	84115	243,000
Bristol Redevelopment and Housing Authority.	809 Edmond Street	Bristol	VA	24201	198,864
City of Roanoke Redevelopment & Housing Authority.	2624 Salem Turnpike NW	Roanoke	VA	24017	407,816
Fairfax Co. Redevelopment & Housing Authority.	3700 Pender Drive, Suite 300	Fairfax	VA	22030	486,000
Newport News Redevelopment and Housing Authority.	227 27th Street	Newport News	VA	23607	296,272
Suffolk Redevelopment and Housing Authority.	500 East Pinner Street	Suffolk	VA	23434	230,435
Waynesboro Redevelopment and Housing Authority.	P. O. Box 1138, 1700 New Hope Road.	Waynesboro	VA	22980	182,770
Brattleboro Housing Authority	P.O. Box 2275	Brattleboro	VT	5303	243,000
Rutland Housing Authority	5 Templewood Court	Rutland	VT	5701	241,194
Housing Authority of the City of Vancouver.	2500 Main Street, Suite 100	Vancouver	WA	98660	233,321
Lummi Nation Housing Authority	2828 Kwina Road	Bellingham	WA	98226	241,500
Puyallup Tribal Housing Authority	2806 East Portland Avenue	Tacoma	WA	98404	243,000
City of Madison Community Development Authority, Housing Ops.	215 Martin Luther King, Jr., Boulevard, City of Madison Municipal Building, Room 120.	Madison	WI	53703	243,000

Recipient	Address	City	State	Zip Code	Amount
College Court Resident Organization.	c/o Kenneth Barbeau, Contract Administrator, HACM, 650 West Reservoir Avenue.	Milwaukee	WI	53212	222,672
Locust Court Resident Organization.	c/o Kenneth Barbeau, Contract Administrator, HACM, 650 West Reservoir Ave.	Milwaukee	WI	53212	222,672
Merrill Park Resident Organization	650 West Reservoir Avenue, c/o Kenneth Barbeau, Contract Administrator, HACM.	Milwaukee	WI	53212	222,672
St. Croix Chippewa Housing Authority.	4456 State Road 70	Webster	WI	54893	200,112

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BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5600–N–20]

Announcement of Funding Awards for the Assisted Living Conversion Program Fiscal Year 2012

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice 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 a competition for funding under the Notice of Funding Availability (NOFA) for the Assisted Living Conversion Program (ALCP). This announcement contains the names of the grantees and the amounts of the awards made available by HUD.

FOR FURTHER INFORMATION CONTACT: Aretha Williams, Acting Director, Office of Housing Assistance and Grant Administration, 451 7th Street SW., Washington, DC 20410; telephone (202) 708–3000 (this is not a toll-free number). Hearing- and speech-impaired persons may access this number via TTY by calling the Federal Relay Service toll-free at 1–800–877–8339. For general information on this and other HUD programs, visit the HUD Web site at *http://www.hud.gov.*

SUPPLEMENTARY INFORMATION: The ALCP is authorized by Section 202b of the Housing Act of 1959 (12 U.S.C. 1701q–2) and the Consolidated Appropriations Act, 2012 (Pub. L. 112–55 approved December 23, 2011).

The competition was announced in the NOFA published in the **Federal Register** on March 14, 2012. Applications were rated and selected for funding on the basis of selection criteria contained in that Notice.

The Catalog of Federal Domestic Assistance number for this program is 14.314.

The Assisted Living Conversion Program is designed to provide funds to private nonprofit Owners to convert their projects (that is; projects funded under Section 202, Section 8 project-based [including Rural Housing Services' Section 515], Section 221(d)(3) BMIR, Section 236, and unused and underutilized commercial properties) to assisted living facilities. Grant funds are used to convert the units and related space for the assisted living facility.

A total of $25,976,207 was awarded to 11 projects for 233 units nationwide. 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 grantees and amounts of the awards in Appendix A of this document.

Dated: April 18, 2013.

Laura M. Marin,

Acting General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

Fiscal Year 2012 Assisted Living Conversion Program

Arizona

Cottonwood, Christian Housing Cottonwood Inc., $1,717,057

California

Half Moon Bay, The Lesley Foundation, $4,092,467

Connecticut

Hartford, Horace Bushnell Congregate Homes, Inc. $2,329,870

New Haven, New Haven Jewish Community Council Housing Corporation, $2,377,570

Denver

Delta, Delta VOA Elderly Housing Inc., $1,376,886

Massachusetts

Reading, Peter Sanborn Place, Inc., $2,242,704

Minneapolis

Saint Louis Park, Menorah Plaza Housing Corporation, $1,492,276

New York

Buffalo, Ken-Ton Presbyterian Village, $2,591,284

Syracuse, Bernardine Apartments, Inc., $2,037,503

Ohio

Baltimore, NCR of Baltimore, $3,284,302

Texas

Dallas, Fowler Christian Apartments, Inc., $2,434,287

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BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5600–FA–09]

Announcement of Funding Awards for the Housing Choice Voucher Family Self-Sufficiency (HCV FSS) Program for Fiscal Year 2012

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, 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 for funding under the Fiscal Year 2012 (FY2012) Notice of Funding Availability (NOFA) for the Housing Choice Voucher Family

Self-Sufficiency (HCV–FSS) program. This announcement contains the consolidated names and addresses of those award recipients selected for funding based on the funding priority categories established in the NOFA.

FOR FURTHER INFORMATION CONTACT: Lisa M. Smyth, Grant Management Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW., B133 Potomac Center, 3rd Floor, Washington, DC 20410, telephone 202–4758835. Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Relay Service at 800–877–8339. (Other than the "800" TTY number, these telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The HCV–FSS Program is intended to promote the development of local strategies to coordinate the use of assistance under the HCV program with public and private resources to enable participating families to increase earned income and financial literacy, reduce or eliminate the need for welfare assistance, and make progress toward economic independence and self-sufficiency. The HCV–FSS program provides critical tools that can be used by communities to help families develop new skills that will lead to economic self-sufficiency. As a result of their participation in the HCV–FSS program, many families have achieved stable employment. A FSS program coordinator assures that program participants are linked to the supportive services they need to achieve self-sufficiency. In addition to working directly with families, a FSS Program Coordinator is responsible for building partnership with employers and service providers in the community to help participants obtain jobs and services.

On February 16, 2012, HUD posted its FY 2012 HCV–FSS NOFA. The NOFA made approximately $60 million (plus any available FY 2011 HCV FSS or earlier carryover funding) available under the Department of Housing and Urban Development Appropriations Act, 2012, Public Law 112–55, 125 Stat. 552, approved November 18, 2011. The Department reviewed and evaluated the applications received based on the criteria in the FY 2012 NOFA, and has funded the applications announced in Appendix A.

In accordance with Section 102(a) (4) (C) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of the 685 awards made under the FY 2012 HCV–FSS Program competition.

Dated: May 2, 2013.

Sandra B. Henriquez,

Assistant Secretary for Public and Indian Housing.

Appendix A—Fiscal Year 2012 Funding Awards for the Housing Choice Voucher Family Self-Sufficiency Program

Recipient	Address	City	State	Zip code	Amount
Alaska Housing Finance Corporation	P.O. Box 101020	Anchorage	AK	99510	$198,642
Albertville Housing Authority	711 South Broad Street	Albertville	AL	35950	21,121
Alexander City Housing Authority	2110 County Road	Alexander City	AL	35010	38,773
Florence Housing Authority	110 South Cypress Street, Suite 1	Florence	AL	35630	52,246
Housing Authority of the Birmingham District	1826 3rd Avenue South	Birmingham	AL	35233	66,214
Housing Authority of the City of Bessemer	1515 Fairfax Avenue South	Bessemer	AL	35021	54,742
Housing Authority of the City of Decatur	P.O. Box 878, 100 Wilson Street North East	Decatur	AL	35601	35,125
Huntsville Housing Authority	200 Washington Street	Huntsville	AL	35804	116,026
Jefferson County Housing Authority	3700 Industrial Parkway	Birmingham	AL	35217	100,286
Mobile Housing Board	151 South Claiborne Street	Mobile	AL	36602	162,136
Prichard Housing Authority	200 West Prichard Avenue	Prichard	AL	36610	46,606
Sheffield Housing Authority	505 North Columbia Avenue	Sheffield	AL	35660	50,213
The Housing Authority of the City of Montgomery, Alabama.	525 South Lawrence Street	Montgomery	AL	36104	51,801
Tuscaloosa Housing Authority	P.O. Box 2281, 2117 Jack Warner Parkway	Tuscaloosa	AL	35403	53,000
Fort Smith Housing Authority	2100 North 31st Street	Fort Smith	AR	72904	52,025
Housing Authority of City of Hope	720 Texas Street	Hope	AR	71801	31,627
Housing Authority of Lonoke County	P.O. Box 74, 617 North Greenlaw	Carlisle	AR	72024	37,513
Housing Authority of the City of Conway	335 South Mitchell Street	Conway	AR	72034	34,500
Housing Authority of the City of Hot Springs	1004 Illinois Street	Hot Springs	AR	71901	47,879
Housing Authority of the City of North Little Rock Arkansas.	P.O. Box 516, 628 West Broadway	North Little Rock	AR	72114	96,015
Housing Authority of the City of Pine Bluff	P.O. Box 8872, 2503 Belle Meade	Pine Bluff	AR	71611	58,000
Housing Authority of the City of West Memphis.	390 South Walker	West Memphis	AR	72301	44,970
Jonesboro Urban Renewal and Housing Authority.	330 Union	Jonesboro	AR	72401	42,460
Lee County Housing Authority	100 West Main	Marianna	AR	72360	27,596
McGehee Public Residential Housing Facilities Board.	P.O. Box 725	McGehee	AR	71654	39,810
Mississippi County Public Facilities Board	810 West Keiser	Osceola	AR	72370	39,314
Northwest Regional Housing Authority	P.O. Box 2568, 114 Sisco Avenue	Harrison	AR	72601	41,016
Pope County Public Facilities Board	P.O. Box 846, 301 East 3rd Street	Russellville	AR	72811	36,052
Pulaski County Housing Agency	201 South Broadway, Suite 220	Little Rock	AR	72201	43,974
White River Regional Housing Authority	P.O. Box 650	Melbourne	AR	72556	39,594
Wynne Housing Authority	200 Fisher Place	Wynne	AR	72396	34,340
Chandler, City of	P.O. Box 4008, Mail Stop 101	Chandler	AZ	85244	54,986
City of Mesa	P.O. Box 1466	Mesa	AZ	85211	68,680
City of Phoenix Housing Department	251 West Washington, 4th Floor	Phoenix	AZ	85003	138,000
City of Scottsdale Housing Agency	7515 East 1st Street	Scottsdale	AZ	85251	68,680
City of Tempe Housing Services	21 East 6th Street, Suite 214	Tempe	AZ	85281	68,680

APPENDIX A—FISCAL YEAR 2012 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER FAMILY SELF-SUFFICIENCY PROGRAM—Continued

Recipient	Address	City	State	Zip code	Amount
City of Tucson	P.O. Box 27210, 301 North Commerce Park Loop.	Tucson	AZ	85726	138,000
Douglas City of Public Housing Authority	425 10th Street	Douglas	AZ	85607	67,266
Housing Authority of Cochise County	P.O. Box 167, 100 Clawson Avenue	Bisbee	AZ	85603	55,476
Housing Authority of the City of Yuma	420 South Madison Avenue	Yuma	AZ	85364	249,500
Mohave, County of	P.O. Box 7000	Kingman	AZ	86402	50,601
Pinal County Housing & Community Development Department.	970 North Eleventh Mile Corner Road	Casa Grande	AZ	85194	27,961
Yuma County Housing Department	8450 West Highway 95, Suite 88	Somerton	AZ	85350	57,430
Area Housing Authority of the County of Ventura.	1400 West Hillcrest Drive	Newbury Park	CA	91320	64,135
City of Anaheim Housing Authority	201 South Anaheim Boulevard	Anaheim	CA	92805	137,360
City of Madera	205 North G Street	Madera	CA	93637	56,720
City of Norwalk	12035 Firestone Boulevard	Norwalk	CA	90650	64,637
City of Oceanside Community Development Commission.	300 North Coast Highway	Oceanside	CA	92054	137,360
City of Pomona	505 South Garey Avenue	Pomona	CA	91766	69,000
City of Santa Monica Housing Authority	1901 Main Street, 1st Floor, Suite A	Santa Monica	CA	90405	65,286
City of Santa Rosa	90 Santa Rosa Avenue	Santa Rosa	CA	95404	68,000
Culver City Housing Authority	9770 Culver Boulevard	Culver City	CA	90232	66,214
El Dorado County Public Housing Authority	2900 Fairlane Court	Placerville	CA	95667	59,902
Fairfield Housing Authority	823–B Jefferson Street	Fairfield	CA	94533	135,816
Garden Grove Housing Authority	11277 Garden Grove Boulevard, #101–C	Garden Grove	CA	92842	69,000
Housing Authority City of Fresno	1331 Fulton Mall	Fresno	CA	93721	194,514
Housing Authority County of Stanislaus	P.O. Box 581918, 1701 Robertson Road	Modesto	CA	95358	136,350
Housing Authority of County of Contra Costa	P.O. Box 2759, 3133 Estudillo Street	Martinez	CA	94553	138,000
Housing Authority of Fresno County	1331 Fulton Mall	Fresno	CA	93721	131,208
Housing Authority of the City of Alameda	701 Atlantic Avenue	Alameda	CA	94501	69,000
Housing Authority of the City of Long Beach	521 East 4th Street	Long Beach	CA	90802	269,723
Housing Authority of the City of Los Angeles	2600 Wilshire Boulevard	Los Angeles	CA	90057	755,480
Housing Authority of the City of Redding	P.O. Box 496071	Redding	CA	96049	58,717
Housing Authority of the City of San Buenaventura.	995 Riverside Street	Ventura	CA	93001	54,948
Housing Authority of the City of San Jose	505 West Julian Street	San Jose	CA	95110	207,000
Housing Authority of the City of San Luis Obispo.	487 Leff Street	San Luis Obispo	CA	93401	51,577
Housing Authority of the City of Santa Ana	P.O. Box 22030, M–37, 20 Civic Center Plaza.	Santa Ana	CA	92702	69,000
Housing Authority of the City of Santa Barbara.	608 Laguna Street	Santa Barbara	CA	93101	134,654
Housing Authority of the City of Vallejo	200 Georgia Street	Vallejo	CA	94590	68,680
Housing Authority of the County of Alameda	22941 Atherton Street	Hayward	CA	94541	276,000
Housing Authority of the County of Butte	2039 Forest Avenue	Chico	CA	95928	63,630
Housing Authority of the County of Kern	601–24th Street	Bakersfield	CA	93301	188,412
Housing Authority of the County of Kings	P.O. Box 355, 680 North Douty Street	Hanford	CA	93232	57,234
Housing Authority of the County of Los Angeles.	12131 Telegraph Road	Santa Fe Springs	CA	90670	621,000
Housing Authority of the County of Marin	4020 Civic Center Drive	San Rafael	CA	94903	138,000
Housing Authority of the County of Merced	405 U Street	Merced	CA	95341	54,400
Housing Authority of the County of Monterey	123 Rico Street	Salinas	CA	93907	138,000
Housing Authority of the County of Riverside	5555 Arlington Avenue	Riverside	CA	92504	483,000
Housing Authority of the County of Sacramento.	801 12th Street	Sacramento	CA	95814	69,000
Housing Authority of the County of San Bernardino.	715 East Brier Drive	San Bernardino	CA	92408	138,000
Housing Authority of the County of San Joaquin.	448 South Center Street	Stockton	CA	95203	131,116
Housing Authority of the County of San Mateo	264 Harbor Boulevard, #A	Belmont	CA	94002	207,000
Housing Authority of the County of Santa Barbara.	815 West Ocean Avenue	Lompoc	CA	93436	67,327
Housing Authority of the County of Santa Clara.	505 West Julian Street	San Jose	CA	95110	207,000
Housing Authority of the County of Santa Cruz.	2931 Mission Street	Santa Cruz	CA	95060	69,000
Imperial Valley Housing Authority	1402 D Street	Brawley	CA	92227	61,151
Lake County Housing Commission	P.O. Box 1049, 16170 Main Street, Suite D	Lower Lake	CA	95457	63,764
Napa Housing Authority	1115 Seminary Street	Napa	CA	94559	138,000
Oakland Housing Authority	1619 Harrison Street	Oakland	CA	94612	276,000
Orange County Housing Authority	1770 North Broadway	Santa Ana	CA	92706	194,970
Oxnard Housing Authority	435 South D Street	Oxnard	CA	93030	67,327

APPENDIX A—FISCAL YEAR 2012 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER FAMILY SELF-SUFFICIENCY PROGRAM—Continued

Recipient	Address	City	State	Zip code	Amount
Pico Rivera Housing Assistance Agency	6615 South Passons Boulevard	Pico Rivera	CA	90660	32,500
Regional Housing Authority of Sutter and Nevada Counties.	1455 Butte House Road	Yuba City	CA	95991	51,978
Roseville Housing Authority	311 Vernon Street	Roseville	CA	95678	66,213
San Diego Housing Commission	1122 Broadway, Suite 300	San Diego	CA	92101	408,798
San Diego, County of (DBA Hsg Authority of the County of SD).	3989 Ruffin Road	San Diego	CA	92123	136,327
Shasta County Housing Authority	1450 Court Street, Suite 108	Redding	CA	96001	29,659
Solano County Housing Authority	40 Eldridge Avenue, Suite 2	Vacaville	CA	95688	57,131
Sonoma County Community Development Commission.	1440 Guerneville Road	Santa Rosa	CA	95403	69,000
Vacaville Housing Authority	40 Eldridge Avenue, Suite 2	Vacaville	CA	95688	132,424
Yuba County Housing Authority	915 8th Street, Suite 130	Marysville	CA	95901	55,458
Adams County Housing Authority	7190 Colorado Boulevard, 6th Floor	Commerce City	CO	80022	49,484
Boulder County Housing Authority	P.O. Box 471	Boulder	CO	80306	193,740
Colorado Department of Local Affairs, Division of Housing.	1313 Sherman Street, Room 319	Denver	CO	80203	103,522
Fort Collins Housing Authority	1715 West Mountain Avenue	Fort Collins	CO	80521	134,654
Housing Authority of the City and County of Denver.	777 Grant Street	Denver	CO	80203	88,928
Housing Authority of the City of Englewood	3460 South Sherman, Suite #101	Englewood	CO	80113	44,128
Housing Authority of the City of Grand Junction.	1011 North 10th	Grand Junction	CO	81501	51,761
Housing Authority of the City of Pueblo	1414 North Santa Fe Avenue	Pueblo	CO	81003	42,804
Lakewood Housing Authority	575 Union Boulevard, Suite 100	Lakewood	CO	80228	16,832
Bristol Housing Authority	164 Jerome Avenue	Bristol	CT	6010	67,328
Connecticut Department of Social Services	25 Sigourney Street	Hartford	CT	6106	206,040
Housing Authority of New Britain	16 Armistice Street	New Britain	CT	6053	69,000
Housing Authority of Stamford	22 Clinton Street	Stamford	CT	6901	68,680
Housing Authority of the City of Ansonia	36 Main Street	Ansonia	CT	6401	27,727
Housing Authority of the City of Derby	101 West Fourth Street	Derby	CT	6418	54,914
Housing Authority of the City of Meriden	22 Church Street	Meriden	CT	6451	138,000
Housing Authority of the City of New Haven	360 Orange Street	New Haven	CT	6511	57,000
Housing Authority of the City of Norwalk	24½ Monroe Street	Norwalk	CT	6856	69,000
West Hartford Housing Corporation	80 Shield Street	West Hartford	CT	6110	68,680
District of Columbia Housing Authority	1133 North Capitol Street North East, Suite 150B.	Washington	DC	20002	276,000
Wilmington Housing Authority	400 North Walnut Street	Wilmington	DE	19801	69,000
Boca Raton Housing Authority	2333A West Glades Road	Boca Raton	FL	33431	51,515
Broward County Housing Authority	4780 North State Road 7	Lauderdale Lakes	FL	33319	179,101
Clearwater Housing Authority	908 Cleveland Street	Clearwater	FL	33755	47,769
Collier County Housing Authority	1800 Farm Worker Way	Immokalee	FL	34142	52,049
Delray Beach Housing Authority	701 South East 6th Avenue, Suite 201	Delray Beach	FL	33483	51,426
Hialeah Housing Authority	75 East 6th Street	Hialeah	FL	33010	72,351
Hollywood Housing Authority	7300 North Davie Road Ext.	Hollywood	FL	33024	20,107
Housing Authority of Brevard County	1401 Guava Avenue	Melbourne	FL	32935	60,000
Housing Authority of Lakeland	430 Hartsell Avenue	Lakeland	FL	33815	88,253
Housing Authority of Pompano Beach	P.O. Box 2006	Pompano Beach	FL	33061	46,107
Housing Authority of the City of Deerfield Beach.	533 South Dixie Highway, Suite 201	Deerfield Beach	FL	33441	47,232
Housing Authority of the City of Fort Lauderdale.	437 South West 4th Avenue	Fort Lauderdale	FL	33315	132,964
Housing Authority of the City of Fort Myers	4224 Renaissance Preserve Way	Fort Myers	FL	33916	100,736
Housing Authority of the City of Fort Pierce	511 Orange Avenue	Fort Pierce	FL	34950	63,798
Housing Authority of the City of Miami Beach	200 Alton Road	Miami Beach	FL	33139	63,000
Housing Authority of the City of Orlando, FL	390 North Bumby Avenue	Orlando	FL	32803	30,150
Housing Authority of the City of Tampa	1529 West Main Street	Tampa	FL	33607	357,294
Jacksonville Housing Authority	1300 North Broad Street	Jacksonville	FL	32202	175,416
Lee County Housing Authority	14170 Warner Circle	North Fort Myers	FL	33903	46,879
Milton Housing Authority	5668 Byrom Street	Milton	FL	32570	69,000
Orange County Housing and Community Development.	525 East South Street	Orlando	FL	32801	68,000
Pahokee Housing Authority	465 Friend Terrace	Pahokee	FL	33476	39,000
Palm Beach County Housing Authority	3432 West 45th Street	West Palm Beach	FL	33407	80,158
Pasco County Housing Authority	14517 7th Street	Dade City	FL	33523	32,749
Pinellas County Housing Authority	11479 Ulmerton Road	Largo	FL	33778	64,539
Public Housing and Community Development	701 N.W. 1st Court, 16th Floor	Miami	FL	33136	218,120
Punta Gorda Housing Authority	340 Gulf Breeze Avenue	Punta Gorda	FL	33950	53,025
Sarasota Housing Authority	40 South Pineapple Avenue	Sarasota	FL	34236	10,100

APPENDIX A—FISCAL YEAR 2012 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER FAMILY SELF-SUFFICIENCY PROGRAM—Continued

Recipient	Address	City	State	Zip code	Amount
The Housing Authority of the City of Daytona Beach.	211 North Ridgewood Avenue, Suite 300	Daytona Beach	FL	32114	41,543
Walton County Housing Agency	63 BoPete Manor Road	DeFuniak Springs	FL	32435	30,000
West Palm Beach Housing Authority	1715 Division Avenue	West Palm Beach	FL	33407	88,401
Winter Haven Housing Authority	2653 Avenue C. South West	Winter Haven	FL	33880	69,000
City of Marietta HCV	268 Lawrence Street, Suite 200	Marietta	GA	30060	56,694
Housing Authority of Columbus, Georgia	P.O. Box 630, 1000 Wynnton Road	Columbus	GA	31902	45,904
Housing Authority of Fulton County	4273 Wendell Drive	Atlanta	GA	30336	46,562
Housing Authority of Newnan	48 Ball Street	Newnan	GA	30263	34,500
Housing Authority of Savannah	P.O. Box 1179	Savannah	GA	31402	129,000
Housing Authority of the City of Augusta, Georgia.	1435 Walton Way	Augusta	GA	30901	150,695
Housing Authority of the City of East Point, Georgia.	3056 Norman Berry Drive	East Point	GA	30364	66,600
Housing Authority of the City of Jonesboro	P.O. Box 458, 203 Hightower Street	Jonesboro	GA	30237	100,908
Housing Authority of the City of Marietta	P.O. Box Drawer K, 95 Cole Street North East.	Marietta	GA	30061	57,070
Northwest Georgia Housing Authority	800 North Fifth Avenue	Rome	GA	30162	41,410
The Housing Authority of the City of Atlanta, Georgia.	230 John Wesley Dobbs Avenue	Atlanta	GA	30303	120,000
The Housing Authority of the City of College Park.	2000 West Princeton Avenue	College Park	GA	30337	64,068
Guam Housing & Urban Renewal Authority	117 Bien Venida Avenue	Sinajana	GU	96910	56,718
City and County of Honolulu	Honolulu Hale	Honolulu	HI	96813	189,008
County of Maui	35 Lunalilo Street, Suite 400	Wailuku	HI	96793	30,000
Hawaii County Housing Agency	50 Wailuku Drive	Hilo	HI	96720	66,204
Hawaii Public Housing Authority	1002 North School Street	Honolulu	HI	96817	63,031
Kauai, County of; DBA Kauai County Housing Agency.	4444 Rice Street, Suite 330	Lihue	HI	96766	133,000
Central Iowa Regional Housing Authority	1201 South East Gateway Drive	Grimes	IA	50111	57,529
City of Cedar Rapids	1211 6th Street South West	Cedar Rapids	IA	52404	138,000
City of Des Moines Municipal Housing Agency.	100 East Euclid Avenue, Suite 101	Des Moines	IA	50313	132,973
City of Dubuque	350 West 6th Street, Suite 312	Dubuque	IA	52001	63,478
City of Sioux City Housing Authority	P.O. Box 447, 405 6th Street, Suite 107	Sioux City	IA	51102	138,000
Eastern Iowa Regional Housing Authority	7600 Commerce Park	Dubuque	IA	53703	138,000
Iowa City Housing Authority	410 East Washington Street	Iowa City	IA	52240	121,721
Mid Iowa Regional Housing Authority	602 3rd Ave North	Fort Dodge	IA	50501	23,528
Municipal Housing Agency of Council Bluffs, Iowa.	505 South 6th Street	Council Bluffs	IA	51501	48,676
Municipal Housing Agency of the City of Fort Dodge.	700 South 17th Street	Fort Dodge	IA	50501	102,766
Muscatine, City of d/b/a Muscatine Municipal Housing Agency.	215 Sycamore Street	Muscatine	IA	52761	55,309
Region XII Regional Housing Authority	P.O. Box 663, 320 East 7th Street	Carroll	IA	51401	45,000
Southern Iowa Regional Housing Authority	219 North Pine Street	Creston	IA	50801	43,850
Ada County Housing Authority	1276 West River Street, Suite 300	Boise	ID	83702	111,708
Boise City Housing Authority	1276 West River Street, #300	Boise	ID	83702	111,710
Idaho Housing and Finance Association	P.O. Box 7899, 565 West Myrtle Street	Boise	ID	83707	247,402
Southwestern Idaho Cooperative Housing Authority Corp.	377 East Main Street	Middleton	ID	83644	89,114
Chicago Housing Authority	60 East Van Buren	Chicago	IL	60605	738,873
DuPage Housing Authority	711 East Roosevelt Road	Wheaton	IL	60187	90,228
Housing Authority of City of Elgin	120 South State Street	Elgin	IL	60123	67,327
Housing Authority of Henry County	125 North Chestnut Street	Kewanee	IL	61443	43,800
Housing Authority of Joliet	6 South Broadway Street	Joliet	IL	60436	64,992
Housing Authority of Marion County	719 East Howard	Centralia	IL	62801	44,747
Housing Authority of the City of Bloomington	104 East Wood Street	Bloomington	IL	61701	51,782
Housing Authority of the City of East St. Louis	700 North 20th Street	East St. Louis	IL	62205	69,000
Housing Authority of the County of Cook	175 West Jackson Boulevard, Suite 350	Chicago	IL	60604	184,800
Housing Authority of the County of Lake, Il.	33928 North Highway 45	Grayslake	IL	60030	153,561
Kankakee County Housing Authority	P.O. Box 965, 185 North St. Joseph Avenue	Kankakee	IL	60901	43,280
Madison County Housing Authority	1609 Olive Street	Collinsville	IL	62234	69,000
Peoria Housing Authority	100 South Richard Pryor Place	Peoria	IL	61605	48,695
Rock Island Housing Authority	227 21st Street	Rock Island	IL	61201	64,908
Rockford Housing Authority	223 South Winnebago Street	Rockford	IL	61102	192,345
Springfield Housing Authority	200 North Eleventh Street	Springfield	IL	62702	148,580
Waukegan Housing Authority, Inc.	215 South Martin Luther King Jr. Avenue	Waukegan	IL	60085	50,819
Winnebago County Housing Authority	3617 Delaware Street	Rockford	IL	61102	63,936
Housing Authority City of Peru	701 East Main Street	Peru	IN	46970	45,945

APPENDIX A—FISCAL YEAR 2012 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER FAMILY SELF-SUFFICIENCY PROGRAM—Continued

Recipient	Address	City	State	Zip code	Amount
Housing Authority City of Vincennes	P.O. Box 1636, 501 Hart Street	Vincennes	IN	47591	43,635
Housing Authority of South Bend	501 Alonzo Watson Drive	South Bend	IN	46601	36,748
Housing Authority of the City of Bloomington	1007 North Summit Street	Bloomington	IN	47404	91,953
Housing Authority of the City of Columbus, Indiana.	799 McClure Road	Columbus	IN	47201	44,477
Housing Authority of the City of Fort Wayne, Indiana.	P.O. Box 13489, 7315 Hanna Street	Fort Wayne	IN	46869	80,000
Housing Authority of the City of Gary	578 Broadway	Gary	IN	46402	50,900
Housing Authority of the City of Hammond	1402 173rd Street	Hammond	IN	46324	59,418
Housing Authority of the City of Kokomo	P.O. Box 1207, 210 East Taylor Street	Kokomo	IN	46903	20,828
Housing Authority of the City of Terre Haute	P.O. Box 3086, 2965 Ijams Drive	Terre Haute	IN	47802	57,217
Housing Authority, City of Elkhart	1396 Benham Avenue	Elkhart	IN	46516	86,540
Indianapolis Housing Agency	1919 North Meridian Street	Indianapolis	IN	46202	143,829
Logansport Housing Authority	719 Spencer Street, Suite 100	Logansport	IN	46947	29,706
Marion Housing Authority	601 South Adams Street	Marion	IN	46952	58,570
New Albany Housing Authority	P.O. Box 11	New Albany	IN	47150	48,965
City of Olathe	P.O. Box 768, 200 West Santa Fe Street	Olathe	KS	66051	54,278
City of Wichita Kansas Housing Authority	332 North Riverview	Wichita	KS	67203	176,384
Johnson County Kansas	12425 West 87th Street Parkway, Suite 200	Lenexa	KS	66218	62,736
Lawrence-Douglas County Housing Authority	1600 Haskell Avenue	Lawrence	KS	66044	157,005
Manhattan Housing Authority	P.O. Box 1024, 300 North 5th Street	Manhattan	KS	66505	18,096
NEK–CAP, Inc.	P.O. Box 380, 1260 220th Street	Hiawatha	KS	66434	50,500
Topeka Housing Authority	2010 S.E. California Avenue	Topeka	KS	66607	21,790
Appalachian Foothills Housing Agency, Inc.	1214 Riverside Boulevard	Wurtland	KY	41144	44,203
Barbourville Urban Renewal & Community Development Agency.	P.O. Box 806, 338 Court Square	Barbourville	KY	40906	32,703
Boone County Fiscal Court	2950 Washington Square	Burlington	KY	41005	65,558
Campbell County Department of Housing	1098 Monmouth Street	Newport	KY	41072	24,166
City of Covington CDA	638 Madison Avenue, 5TH Floor, Room 506	Covington	KY	41011	51,005
City of Richmond Section 8 Housing	P.O. Box 250	Richmond	KY	40476	100,000
Cumberland Valley Regional Housing Authority.	P.O. Box 806, 338 Court Square	Barbourville	KY	40906	86,125
Housing Authority of Cynthiana	148 Federal Street	Cynthiana	KY	41031	63,291
Housing Authority of Floyd County	402 John M. Stumbo Drive	Langley	KY	41645	30,603
Housing Authority of Frankfort	590 Walter Todd Drive	Frankfort	KY	40601	48,728
Housing Authority of Georgetown	139 Scroggins Park	Georgetown	KY	40324	45,908
Housing Authority of Newport, KY	P.O. Box 72459, 30 East 8th Street	Newport	KY	41071	52,735
Housing Authority of Somerset	P.O. Box 449	Somerset	KY	42502	42,334
Kentucky Housing Corporation	1231 Louisville Road	Frankfort	KY	40601	153,949
Lexington-Fayette Urban County Housing Authority.	300 West New Circle Road	Lexington	KY	40505	50,029
Louisville Metro Housing Authority	420 South Eighth Street	Louisville	KY	40203	451,038
Pineville Urban Renewal & Community	114 West Kentucky Avenue	Pineville	KY	40977	31,642
Calcasieu Parish Police Jury Housing Department.	1011 Lakeshore Drive, Suite 602	Lake Charles	LA	70602	46,020
Housing Authority of the Parish of Natchitoches.	Housing Authority of the Parish of Natchitoches.	Natchitoches	LA	71457	22,980
Jefferson Parish Housing Authority	1718 Betty Street	Marrero	LA	70072	108,220
Terrebonne Parish Consolidated Government	809 Barraow Street	Houma	LA	70360	43,478
Acton Housing Authority	68 Windsor Avenue	Action	MA	1720	58,000
Arlington Housing Authority	4 Winslow Street	Arlington	MA	2474	67,326
Attleboro Housing Authority	37 Carlon Street	Attleboro	MA	2703	54,091
Boston Housing Authority	52 Chauncy Street	Boston	MA	2111	206,040
Braintree Housing Authority	25 Roosevelt Street	Braintree	MA	2184	53,694
Brockton Housing Authority	45 Goddard Road	Brockton	MA	2303	68,680
Chelmsford Housing Authority	10 Wilson Street	Chelmsford	MA	1824	63,356
Chelsea Housing Authority	54 Locke Street	Chelsea	MA	2150	64,909
Commonwealth of Massachusetts	100 Cambridge Street, Suite 300	Boston	MA	2114	730,429
Fall River Housing Authority	85 Morgan Street	Fall River	MA	2722	67,327
Framingham Housing Authority	1 Jon J. Brady Drive	Framingham	MA	1702	66,970
Gardner Housing Authority	116 Church Street	Gardner	MA	1440	50,762
Gloucester Housing Authority	P.O. Box 259, 259 Washington Street	Gloucester	MA	1931	42,953
Greenfield Housing Authority	1 Elm Terrace	Greenfield	MA	1301	63,159
Hingham Housing Authority	30 Thaxter Street	Hingham	MA	2043	67,332
Holyoke Housing Authority	475 Maple Street, Suite One	Holyoke	MA	1040	48,680
Leominster Housing Authority	100 Main Street	Leominster	MA	1453	48,250
Lowell Housing Authority	P.O. Box 60, 350 Moody Street	Lowell	MA	1853	65,558
Lynn Housing Authority & Neighborhood Development (LHAND).	10 Church Street	Lynn	MA	1902	60,639
Malden Housing Authority	630 Salem Street	Malden	MA	2148	56,468

APPENDIX A—FISCAL YEAR 2012 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER FAMILY SELF-SUFFICIENCY PROGRAM—Continued

Recipient	Address	City	State	Zip code	Amount
Medford Housing Authority	121 Riverside Avenue	Medford	MA	2155	67,332
Melrose Housing Authority	910 Main Street	Melrose	MA	2176	19,510
Methuen Housing Authority	24 Mystic Street	Methuen	MA	1844	55,668
Milton Housing Authority	65 Miller Avenue	Milton	MA	2186	66,660
North Andover Housing Authority	One Morkeski Meadows	North Andover	MA	1845	57,857
Plymouth Housing Authority	P.O. Box 3537, 130 Court Street	Plymouth	MA	2361	46,363
Quincy Housing Authority	80 Clay Street	Quincy	MA	2170	66,501
Revere Housing Authority	70 Cooledge Street	Revere	MA	2151	66,600
Somerville Housing Authority	30 Memorial Road	Somerville	MA	2145	62,392
Taunton Housing Authority	30 Olney Street, Suite B	Taunton	MA	2780	61,248
Wayland Housing Authority	106 Main Street	Wayland	MA	1778	18,200
Worcester Housing Authority	40 Blemont Street	Worcester	MA	1605	131,300
Baltimore, County of	6401 York Road		MD	21212	175,288
Cecil County Housing Agency	200 Chesapeake Boulevard, Suite 1800	Elkton	MD	21921	52,034
Commissioners of Carroll County	225 North Center Street	Westminster	MD	21157	54,078
Hagerstown Housing Authority	35 West Baltimore Street	Hagerstown	MD	21740	50,659
Harford County Housing Agency	15 South Main Street, Suite 106	Bel Air	MD	21014	56,236
Housing Authority of Baltimore City	417 East Fayette Street, Room 923	Baltimore	MD	21202	344,040
Housing Authority of St. Mary's County, Maryland.	21155 Lexwood Drive, Suite C	Lexington Park	MD	20653	45,048
Housing Authority of the City of Frederick	209 Madison Street	Frederick	MD	21701	49,860
Housing Opportunities Commission	10400 Detrick Avenue	Kensington	MD	20895	417,000
Howard County Housing Commission	6751 Columbia Gateway Drive, Gateway Building, 3rd Floor.	Columbia	MD	21046	61,059
Maryland Department of Housing and Community Development.	100 Community Place	Crownsville	MD	21032	37,901
Rockville Housing Enterprises	621–A Southlawn Lane	Rockville	MD	20850	68,680
The Housing Authority of Prince George's County.	9400 Peppercorn Place	Largo	MD	20744	103,500
The Housing Authority of Washington County	319 East Antietam Street, 2nd Floor	Hagerstown	MD	21740	31,310
The Housing Commission of Anne Arundel County.	7477 Baltimore Annapolis Boulevard, Suite 300.	Glen Burnie	MD	21061	127,260
Augusta Housing Authority	33 Union Street, Suite #3	Augusta	ME	4330	32,484
Bangor Housing Authority	161 Davis Road	Bangor	ME	4401	22,550
City of Caribou	25 High Street	Caribou	ME	4736	48,729
Housing Authority of the City of Old Town	P.O. Box 404, 358 Main Street	Old Town	ME	4468	23,972
Lewiston Housing Authority	1 College Street	Lewiston	ME	4240	39,972
Maine State Housing Authority	353 Water Street	Augusta	ME	4330	54,031
Portland Housing Authority	14 Baxter Boulevard	Portland	ME	4101	52,855
Westbrook Housing Authority	30 Liza Harmon Drive	Westbrook	ME	4092	40,607
Ann Arbor, City of	727 Miller Avenue	Ann Arbor	MI	48103	34,500
Detroit Housing Commission	1301 East Jefferson	Detroit	MI	48207	196,500
Flint Housing Commission	3820 Richfield Road	Flint	MI	48506	69,000
Grand Rapids Housing Commission	1420 Fuller SE	Grand Rapids	MI	49507	196,705
Kent County Housing Commission	82 Ionia Avenue N.W., Suite 390	Grand Rapids	MI	49503	117,082
Lansing Housing Commission	310 Seymour	Lansing	MI	48933	34,500
Michigan State Housing Development Authority.	P.O. Box 30044, 735 East Michigan Avenue	Lansing	MI	48909	966,000
Plymouth Housing Commission	1160 Sheridan Street	Plymouth	MI	48170	133,413
Pontiac Housing Commission	132 Franklin Boulevard	Pontiac	MI	48341	69,000
Saginaw Housing Commission	1803 Norman Street	Saginaw	MI	48605	87,356
Traverse City Housing Commission	150 Pine Street	Traverse City	MI	49684	66,970
Westland Housing Commission	32715 Dorsey Road	Westland	MI	48186	33,069
Wyoming Housing Commission	2450 36th Street South West	Wyoming	MI	49519	137,680
Brainerd Housing and Redevelopment Authority.	324 East River Road	Brainerd	MN	56401	59,000
Dakota County Community Development Agency.	1228 Town Centre Drive	Eagan	MN	55123	24,876
Housing & Redevelopment Authority of Clay County.	P.O. Box 99, 116 Center Avenue E	Dilworth	MN	56529	65,746
Housing & Redevelopment Authority of Duluth, MN.	P.O. Box 16900, 222 East Sedond Street	Duluth	MN	55816	65,543
Housing & Redevelopment Authority of Virginia, MN.	P.O. Box 1146, 442 Pine Mill Court	Virginia	MN	55792	58,713
Housing Authority of Saint Louis Park	5005 Minnetonka Boulevard	Saint Louis Park	MN	55416	20,356
Mankato Economic Development Authority	P.O. Box 3368, 10 Civic Center Plaza	Mankato	MN	56002	53,075
Public Housing Agency of the City of Saint Paul.	555 North Wabasha Street, Suite 400	Saint Paul	MN	55102	68,680
Scott County Community Development Agency.	323 South Naumkeag Street	Shakopee	MN	55379	45,000

APPENDIX A—FISCAL YEAR 2012 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER FAMILY SELF-SUFFICIENCY PROGRAM—Continued

Recipient	Address	City	State	Zip code	Amount
South Central MN Multi-County HRA	306 Pierce Avenue, Suite 106	North Mankato	MN	56003	38,806
Southeastern Minnesota Multi-County HRA	134 East Second Street	Wabasha	MN	55981	36,424
Washington County Housing and Redevelopment Authority.	321 Broadway Avenue	Saint Paul Park	MN	55071	34,500
Franklin County Public Housing Agency	P.O. Box 920	Hillsboro	MO	63050	86,840
Housing Authority of Kansas City, Missouri	920 Main	Kansas City	MO	64105	306,022
Housing Authority of Saint Charles	1041 Olive Street	Saint Charles	MO	63301	50,274
Housing Authority of St. Louis County	P.O. Box 23886	St. Louis	MO	63121	119,589
Housing Authority of the City of Columbia, MO.	201 Switzler Street	Columbia	MO	65203	51,378
Housing Authority of the City of Jefferson	P.O. Box 1029, 1040 Myrtle Avenue	Jefferson City	MO	65109	69,000
Housing Authority of the City of Liberty	17 East Kansas	Liberty	MO	64068	44,645
Housing Authority of the City of Springfield, Missouri.	421 West Madison Street	Springfield	MO	65806	26,825
Jasper County Public Housing Agency	302 Joplin Avenue	Joplin	MO	64801	27,774
North East Community Action Corp./dba Lincoln County PHA.	P.O. Box 470, 16 North Court Street	Bowling Green	MO	63334	75,528
Phelps County Public Housing Agency	4 Industrial Drive	St. James	MO	65559	53,932
Ripley County Public Housing Agency	3019 Fair Street	Poplar Bluff	MO	63901	34,213
St. Charles County Government	100 North Third Street	St. Charles	MO	63301	42,825
St. Clair County PHA	P.O. Box 125, 106 West Fourth	Appleton City	MO	64724	169,988
St. Francois County Public Housing Authority	Box 308, 403 Parkway Drive	Park HIlls	MO	63601	31,530
St. Louis Housing Authority	3520 Page Boulevard	St. Louis	MO	63106	61,481
Mississippi Regional Housing Authority No. II	900 Molly Barr Road	Oxford	MS	38655	30,000
Mississippi Regional Housing Authority No. VII.	P.O. Box 748, 130 Commerce Street	McComb	MS	39648	71,909
Mississippi Regional Housing Authority VI	P.O. Box 8746, 2180 Terry Road	Jackson	MS	39204	121,965
Mississippi Regional Housing Authority VIII	P.O. Box 2347, 10430 Three Rivers Road	Gulfport	MS	39505	68,680
South Delta Regional Housing Authority	202 Weston Avenue	Leland	MS	38756	106,500
Tennessee Valley Regional Housing Authority	P.O. Box 1329	Corinth	MS	38835	176,640
The Housing Authority of the City of Biloxi	P.O. Box 447, 330 Benachi Avenue	Biloxi	MS	39533	41,612
The Housing Authority of the City of Jackson, MS.	2747 Livingston Road	Jackson	MS	39213	56,588
The Housing Authority of the City of Meridian	2425 East Street	Meridian	MS	39302	53,833
Housing Authority of Billings	2415 1st Avenue North	Billings	MT	59101	41,049
Missoula Housing Authority	1235 34th Street	Missoula	MT	59801	134,654
Chatham County Housing Authority	P.O. Box 637, 190 Sanford Road	Pittsboro	NC	27312	48,636
City of Concord Housing Department	P.O. Box 308, 283 Harold Goodman Circle	Concord	NC	28026	19,076
Coastal Community Action, Inc	P.O. Box 729, 303 McQueen Avenue	Newport	NC	28570	37,301
Eastern Carolina Human Services Agency, Inc.	246 Georgetown Road	Jacksonville	NC	28541	66,799
Economic Improvement Council, Inc	712 Virginia Road	Edenton	NC	27932	44,167
Gastonia Housing Authority	P.O. Box 2398, 340 West Long Avenue	Gastonia	NC	28053	42,759
Greensboro Housing Authority	P.O. Box 21287, 450 North Church Street	Greensboro	NC	27420	150,670
Housing Authority of the City of Asheville	165 South French Broad Avenue	Asheville	NC	28801	69,000
Housing Authority of the City of Charlotte, N.C.	1301 South Boulevard	Charlotte	NC	28203	48,233
Housing Authority of the City of Greenville	1103 Broad Street	Greenville	NC	27834	100,050
Housing Authority of the City of High Point	500 East Russell Avenue	High Point	NC	27260	49,003
Housing Authority of the City of Kinston, NC	608 North Queen Street	Kinston	NC	28501	48,463
Housing Authority of the City of Wilmington, NC.	1524 South 16th Street	Wilmington	NC	28401	55,273
Housing Authority of the City of Winston-Salem.	500 West Fourth Street, Suite 300	Winston-Salem	NC	27101	57,000
Housing Authority of the County of Wake	P.O. Box 399, 100 Shannon Drive	Zebulon	NC	27597	50,000
Housing Authority of the Town of Laurinburg	P.O. Box 1437, 1300 Woodlawn Street	Laurinburg	NC	28353	47,564
Isothermal Plan and Dev Commission	P.O. Box 841, 111 West Court Street	Rutherfordton	NC	28139	35,744
Mid-East Regional Housing Authority	809 Pennsylvania Avenue	Washington	NC	27889	40,804
Mountain Projects, Inc	2251 Old Balsam Road	Waynesville	NC	28786	33,604
Northwestern Regional Housing Authority	P.O. Box 2510, 869 Highway 105 Extension—Suite 10.	Boone	NC	28607	206,884
Rowan County Housing Authority	310 Long Meadow Drive	Salisbury	NC	28147	90,900
Sandhills Community Action Program	P.O. Box 0937, 103 Saunders Street	Carthage	NC	28327	38,000
Sanford Housing Authority	1000 Carthage Street	Sanford	NC	27330	44,226
Statesville Housing Authority	110 West Allison Street	Statesville	NC	28677	45,419
The Housing Authority of the City of Durham	330 East Main Street	Durham	NC	27701	68,680
Thomasville Housing Authority	201 James Avenue	Thomasville	NC	27360	32,000
Twin Rivers Opportunities, Inc	318 Craven Street	New Bern	NC	28563	67,209
Washington Housing Authority	809 Pennsylvania Avenue	Washington	NC	27889	40,000
Western Carolina Community Action	P.O. Box 685, 220 King Creek Boulevard	Hendersonville	NC	28793	61,705

APPENDIX A—FISCAL YEAR 2012 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER FAMILY SELF-SUFFICIENCY PROGRAM—Continued

Recipient	Address	City	State	Zip code	Amount
Western Piedmont Council of Governments	P.O. Box 9026, 1880 2nd Avenue North West	Hickory	NC	28603	69,000
Fargo Housing and Redevelopment Authority	325 Broadway	Fargo	ND	58102	55,675
Minot Housing Authority	108 Burdick Expy East	Minot	ND	58701	43,612
The Housing Authority of the City of Grand Forks, ND.	1405 1st Avenue North	Grand Forks	ND	58203	104,385
Douglas County Housing Authority	5404 North 107th Plaza	Omaha	NE	68134	51,510
Goldenrod Regional Housing Agency	P.O. Box 799, 1017 Avenue East	Wisner	NE	68791	36,421
Housing Authority of the City of Lincoln	5700 R Street	Lincoln	NE	68505	60,952
Housing Authority of the City of Omaha	540 South 27th Street	Omaha	NE	68105	141,884
Kearney Housing Agency	P.O. Box 1236, 2715 Avenue I	Kearney	NE	68848	7,535
NortheastNebraskaJointHA	1122 Pierce Street	Sioux City	NE	51105	40,756
Dover Housing Authority	62 Whittier Street	Dover	NH	3820	69,000
Keene Housing Authority	831 Court Street	Keene	NH	3431	131,198
Manchester Housing and Redevelopment Authority.	198 Hanover Street	Manchester	NH	3104	44,997
New Hampshire Housing Finance Authority	32 Constitution Drive	Bedford	NH	3110	234,031
Fort Lee Housing Authority	1403 Teresa Drive	Fort Lee	NJ	7024	51,000
Housing Authority County of Morris	99 Ketch Road	Morristown	NJ	7960	32,485
Housing Authority of Gloucester County	100 Pop Moylan Boulevard	Deptford	NJ	8096	43,400
Housing Authority of the Borough of Madison	24 Central Avenue	Madison	NJ	7940	55,233
Housing Authority of the City of Camden	2021 Watson Street, 2nd Floor	Camden	NJ	8105	40,740
Housing Authority of the City of East Orange	160 Halsted Street	East Orange	NJ	7018	69,000
Housing Authority of the City of Jersey City	400 US Highway #1	Jersey City	NJ	7306	293,435
Housing Authority of the City of Newark	500 Broad Street	Newark	NJ	7102	65,897
Housing Authority of the City of Orange	340 Thomas Boulevard	Orange	NJ	7050	68,000
Housing Authority of the City of Paterson	60 Van Houten Street	Paterson	NJ	7505	49,889
Housing Authority of the City of Perth Amboy	P.O. Box 390, 881 Amboy Avenue	Perth Amboy	NJ	8862	135,806
Housing Authority of the Town of Boonton, NJ (NJ052).	125 Chestnut Street	Boonton	NJ	7005	69,000
Housing Authority Town of Dover	215 East Blackwell Street	Dover	NJ	7801	31,777
Irvington Housing Authority	624 NYE Avenue	Irvington	NJ	7111	68,680
Lakewood Housing Authority	P.O. Box 1599, 317 Sampson Avenue	Lakewood	NJ	8701	66,214
Lakewood Twp Rental Assistance Program	600 West Kennedy Boulevard	Lakewood	NJ	8701	51,140
Monmouth County Public Housing Agency	3000 Kozloski Road	Freehold	NJ	7728	69,000
New Jersey Department of Community Affairs	P.O. Box 051, 101 South Broad Street	Trenton	NJ	8625	275,040
Passaic County Public Housing Agency	100 Hamilton Plaza, Suite 510	Paterson	NJ	7505	123,244
Pleasantville Housing Authority	156 North Main Street	Pleasantville	NJ	8232	68,680
The Housing Authority of Plainfield	510 East Front Street	Plainfield	NJ	7060	69,000
Woodbridge Housing Authority	20 Bunns Lane	Woodbridge	NJ	7095	22,286
Bernalillo County Housing Department	1900 Bridge Boulevard South West	Albuquerque	NM	87105	118,368
Clovis Housing & Development Agency, Inc	P.O. Box 1240, 2101 West Grand Avenue	Clovis	NM	88101	41,624
Eastern Regional Housing Authority	P.O. Drawer 2057, 106 East Reed	Roswell	NM	88202	138,000
Housing Authority of the City of Truth or Consequences.	108 South Cedar	Truth or Consequences.	NM	87901	46,101
Mesilla Valley Public Housing Authority	926 South San Pedro	Las Cruces	NM	88001	26,322
Santa Fe Civic Housing Authority	644 Alta Vista Street	Santa Fe	NM	87505	33,482
Santa Fe County Housing Authority	52 Camino de Jacobo	Santa Fe	NM	87507	69,000
Socorro County Housing Authority	P.O. Box 00, 301 Otero Avenue	Socorro	NM	87801	25,000
Housing Authority of the City of Reno	1525 East Ninth Street	Reno	NV	89512	44,327
Southern Nevada Regional Housing Authority	340 North 11th Street	Las Vegas	NV	89101	514,806
Albany Housing Authority	200 South Pearl Street	Albany	NY	12202	137,360
Amsterdam Housing Authority	52 Division Street	Amsterdam	NY	12010	49,435
City of Johnstown	c/o Joseph E. Mastrianni, Inc., 11 Federal Street.	Saratoga Springs	NY	12866	32,969
City of North Tonawanda, Belmont Housing Resources, Agent.	1195 Main Street	Buffalo	NY	14209	48,583
City of Oswego Community Development Office.	20 West Oneida Street, Third Floor	Oswego	NY	13126	47,140
City of Utica Section 8 Program	1 Kennedy Plaza	Utica	NY	13502	46,000
Cohoes Housing Authority	c/o Joseph E. Mastrianni, Inc., 11 Federal Street.	Saratoga Springs	NY	12866	34,500
Erie County PHA Consortium, Town of Amherst, Belmont Housing.	1195 Main Street	Buffalo	NY	14209	147,097
Gloversville Housing Authority	c/o Joseph E. Mastrianni, Inc, 11 Federal Street.	Saratoga Springs	NY	12866	49,199
Ithaca Housing Authority	800 South Plain Street	Ithaca	NY	14850	137,360
Mechanicville Housing Authority	c/o Joseph E. Mastrianni, Inc., 11 Federal Street.	Saratoga Springs	NY	12866	32,000
Monticello Housing Authority	76 Evergreen Drive	Monticello	NY	12701	36,050

APPENDIX A—FISCAL YEAR 2012 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER FAMILY SELF-SUFFICIENCY PROGRAM—Continued

Recipient	Address	City	State	Zip code	Amount
Municipal Housing Authority of the City of Schenectady.	375 Broadway	Schenectady	NY	12305	47,830
New Rochelle Municipal Housing Authority	50 Sickles Avenue	New Rochelle	NY	10801	65,558
New York City Department Housing Preservation + Development.	100 Gold Street	New York City	NY	10038	
New York City Housing Authority	250 Broadway	New York	NY	10007	69,000
North Fork Housing Alliance, Inc	116 South Street	Greenport	NY	11944	34,500
North Hempstead Housing Authority	899 Broadway	Westbury	NY	11590	51,510
NYS Housing Trust Fund (NY904)	25 Beaver Street, #732	New York	NY	10004	
Rental Assistance Corporation of Buffalo	470 Franklin Street	Buffalo	NY	14202	98,697
Rochester Housing Authority	675 West Main Street	Rochester	NY	14611	278,050
Syracuse Housing Authority	516 Burt Street	Syracuse	NY	13202	206,040
Town of Babylon Housing Assistance Agency	281 Phelps Lane, Room #9	North Babylon	NY	11703	49,599
Town of Brookhaven	One Independence Hill	Farmingville	NY	11738	58,273
Town of Colonie	c/o Joseph E. Mastrianni, Inc., 11 Federal Street.	Saratoga Springs	NY	12866	52,602
Town of Guilderland	c/o Joseph E. Mastrianni, Inc., 11 Federal Street.	Saratoga Springs	NY	12866	65,038
Town of Huntington Housing Authority	1 A Lowndes Avenue	Huntington Station	NY	11746	68,680
Town of Islip Housing Authority	963 Montauk Highway	Oakdale	NY	11769	23,000
Town of Rotterdam	c/o Joseph E. Mastrianni, Inc., 11 Federal Street.	Saratoga Springs	NY	12866	54,797
Town of Smithtown	99 West Main Street	Smithtown	NY	11787	24,853
Troy Housing Authority	One Eddy's Lane	Troy	NY	12180	69,000
Village of Ballston Spa	c/o Joseph E. Mastrianni, Inc., 11 Federal Street.	Saratoga Springs	NY	12866	41,623
Village of Corinth	c/o Joseph E. Mastrianni, Inc., 11 Federal Street.	Saratoga Springs	NY	12866	33,237
Village of Fort Plain	c/o Joseph E. Mastrianni, Inc., 11 Federal Street.	Saratoga Springs	NY	12866	65,938
Village of Highland Falls	c/o Joseph E. Mastrianni, Inc., 11 Federal Street.	Saratoga Springs	NY	12866	32,969
Village of Kiryas Joel Housing Authority	51 Forest Road, Suite 360	Monroe	NY	10950	66,200
Village of Scotia	c/o Joseph E. Mastrianni, Inc., 11 Federal Street.	Saratoga Springs	NY	12866	28,779
Adams Metropolitan Housing Authority	401 East Seventh Street	Manchester	OH	45144	40,000
Akron Metropolitan Housing Authority	100 West Cedar Street	Akron	OH	44307	184,367
Allen Metropolitan Housing Authority	600 South Main Street	Lima	OH	45804	39,501
Athens Metropolitan Housing Authority	10 Hope Drive	Athens	OH	45701	41,276
Cambridge Metropolitan Housing Authority	P.O. Box 1388, 1100 Maple Court	Cambridge	OH	43725	32,900
Chillicothe Metropolitan Housing Authority	178 West Fourth Street	Chillicothe	OH	45601	45,247
Cincinnati Metropolitan Housing Authority	16 West Central Parkway	Cincinnati	OH	45202	248,250
City of Marietta, OH/PHA	301 Putnam Street	Marietta	OH	45750	44,222
Clinton Metropolitan Housing Authority	478 Thorne Avenue	Wilmington	OH	45177	50,225
Columbus Metropolitan Housing Authority	880 East 11th Avenue	Columbus	OH	43221	96,258
Cuyahoga Metropolitan Housing Authority	8120 Kinsman Road	Cleveland	OH	44104	90,958
Dayton Metropolitan Housing Authority	400 Wayne Avenue	Dayton	OH	45401	95,252
Delaware Metropolitan Housing Authority	P.O. Box 1292, 222 Curtis Street (rear)	Delaware	OH	43015	47,001
Erie MHA (OH028)	322 Warren Street	Sandusky	OH	44870	51,650
Fairfield Metropolitan Housing Authority	315 North Columbus Street	Lancaster	OH	43130	52,645
Geauga Metropolitan Housing Authority	385 Center Street	Chardon	OH	44024	59,000
Jackson Metropolitan Housing Authority	P.O. Box 619, 249 West 13th Street	Wellston	OH	45692	40,640
Jefferson Metropolitan Housing Authority	815 North 6th Avenue	Steubenville	OH	43952	49,999
Knox Metropolitan Housing Authority	201A West High Street	Mount Vernon	OH	43050	46,244
Lake Metropolitan Housing Authority	189 First Street	Painesville	OH	44077	77,986
Lorain Metropolitan Housing Authority	1600 Kansas Avenue	Lorain	OH	44052	49,115
Lucas Metropolitan Housing Authority	P.O. Box 477, 435 Nebraska Avenue	Toledo	OH	43697	181,255
Morgan Metropolitan Housing Authority	4580 North Street Route 376 North West	McConnelsville	OH	43756	21,341
Morrow Metropolitan Housing Authority	619 West Marion Road, Suite 107	Mount Gilead	OH	43338	37,589
Parma Public Housing Agency	1440 Rockside Road, Suite 306	Parma	OH	44134	41,212
Pickaway Metro Housing Authority	176 Rustic Drive	Circleville	OH	43113	23,500
Portage Metropolitan Housing Authority	2832 State Route 59	Ravenna	OH	44266	38,462
Springfield Metropolitan Housing Authority	101 West High Street	Springfield	OH	45502	44,645
The Logan County Metropolitan Housing Authority.	116 North Everett Street	Bellefontaine	OH	43311	37,903
Trumbull Metropolitan Housing Authority	4076 Youngstown Road, South East, Suite 101.	Warren	OH	44484	66,212
Tuscarawas Metropolitan Housing Authority	134 2nd Street South West	New Philadelphia	OH	44663	50,000
Vinton Metropolitan Housing Authority	P.O. Box 487, 310 West High Street	McArthur	OH	45651	38,728
Wayne Metropolitan Housing Authority	345 North Market Street	Wooster	OH	44691	43,528

APPENDIX A—FISCAL YEAR 2012 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER FAMILY SELF-SUFFICIENCY PROGRAM—Continued

Recipient	Address	City	State	Zip code	Amount
Youngstown Metropolitan Housing Authority ..	131 West Boardman Street	Youngstown	OH	44503	182,093
Zanesville Metropolitan Housing Authority	407 Pershing Road	Zanesville	OH	43701	183,444
Housing Authority of the City of Norman	700 North Berry Road	Norman	OK	73069	49,212
Housing Authority of the City of Shawnee, OK	P.O. Box 3427, 601 West Seventh Street	Shawnee	OK	74802	41,208
Housing Authority of the City of Stillwater	807 South Lowry OFC	Stillwater	OK	74074	45,178
Housing Authority of the City of Tulsa	415 East Independence Street	Tulsa	OK	74106	39,294
Oklahoma City Housing Authority	1700 Northeast 4th Street	Oklahoma City	OK	73117	35,358
Oklahoma Housing Finance Agency	100 North West 63rd Street, Suite 200	Oklahoma City	OK	73116	195,071
Central Oregon Regional Housing Authority dba Housing Works.	405 South West 6th Street	Redmond	OR	97756	134,654
Home Forward	135 South West Ash Street	Portland	OR	97204	313,695
Housing and Community Services Agency of Lane County.	177 Day Island Road	Eugene	OR	97401	138,000
Housing Authority & Urban Renewal Agency of Polk Co.	P.O. Box 467, 204 South West Walnut Ave ..	Dallas	OR	97338	67,326
Housing Authority of Clackamas County	P.O. Box 1510, 13930 South Gain Street	Oregon City	OR	97045	99,286
Housing Authority of Jackson County	2251 Table Rock Road	Medford	OR	97501	127,526
Housing Authority of the City of Salem	360 Church Street South East	Salem	OR	97301	198,213
Housing Authority of Washington County	111 Northeast Lincoln Street, Suite 200–L	Hillsboro	OR	97124	51,563
Housing Authority of Yamhill County	135 Northeast Dunn Place	McMinnville	OR	97128	262,625
Linn-Benton Housing Authority	1250 Queen Avenue South East	Albany	OR	97322	137,360
Marion County Housing Authority	2645 Portland Road North East, Suite 200	Salem	OR	97301	58,570
Mid-Columbia Housing Authority	312 Court Street, Suite 419	The Dalles	OR	97058	54,000
Northeast Oregon Housing Authority	P.O. Box 3357	La Grande	OR	97850	85,000
Northwest Oregon Housing Authority	P.O. Box 1149	Warrenton	OR	97146	45,437
Adams County Housing Authority	40 East High Street	Gettysburg	PA	17325	47,768
Allegheny County Housing Authority	625 Stanwix Street	Pittsburgh	PA	15222	100,879
Altoona Housing Authority	2700 Pleasant Valley Boulevard	Altoona	PA	16602	56,689
Bucks County Housing Authority	350 South Main Street, Suite 205	Doylestown	PA	18901	69,000
Delaware County Housing Authority	1855 Constitution Avenue	Woodlyn	PA	19094	43,932
Harrisburg Housing Authority	351 Chestnut Street	Harrisburg	PA	17101	55,000
Housing Authority of Centre County	602 East Howard Street	Bellefonte	PA	16823	47,278
Housing Authority of Indiana County	104 Philadelphia Street	Indiana	PA	15701	26,429
Housing Authority of Northumberland County	50 Mahoning Street	Milton	PA	17847	33,873
Housing Authority of the City of Easton	P.O. Box 876, 157 South Fourth Street	Easton	PA	18044	57,570
Housing Authority of the City of Lancaster	325 Church Street	Lancaster	PA	17602	52,316
Housing Authority of the City of Pittsburgh	200 Ross Street	Pittsburgh	PA	15219	262,267
Housing Authority of the City of York	31 South Broad Street	York	PA	17403	48,577
Housing Authority of the County of Butler	114 Woody Drive	Butler	PA	16001	45,477
Housing Authority of the County of Chester ...	30 West Barnard Street, Suite 2	West Chester	PA	19382	53,200
Housing Authority of the County of Clarion	8 West Main Street	Clarion	PA	16214	81,266
Housing Authority of the County of Cumberland.	114 North Hanover Street	Carlisle	PA	17013	20,173
Housing Authority of the County of Dauphin ...	P.O. Box 7598, 501 Mohn Street	Steelton	PA	17113	56,653
Housing Authority of the County of Franklin ...	436 West Washington Street	Chambersburg	PA	17201	20,800
Housing Authority of the County of Union	1610 Industrial Boulevard, Suite 400	Lewisburg	PA	17837	23,654
Lancaster County Housing Authority	202 North Prince Street, Suite 400	Lancaster	PA	17603	52,313
Lycoming Housing Authority	1941 Lincoln Drive	Williamsport	PA	17701	19,976
Montgomery County Housing Authority	104 West Main Street, Suite 1	Norristown	PA	19401	55,182
Philadelphia Housing Authority	12 South 23rd Street, 6th Floor	Philadelphia	PA	19103	345,000
Westmoreland County Housing Authority	154 South Greengate Road	Greensburg	PA	15601	150,041
Municipality of Bayamon	P.O. Box 1588	Bayam??n	PR	960	28,180
Municipality of Guaynabo	P.O. Box 7885	Guaynabo	PR	970	13,000
Municipality of San German	136 Avenue Universidad Interamericana	San German	PR	0	59,008
Municipality of San Juan	P.O. Box 36–2138	San Juan	PR	936	35,985
Munucipality of Juana Díaz	P.O. BOX 1409, Calle Degeatau # 35	Juana Díaz	PR	795	24,373
Central Falls Housing Authority	30 Washington Street	Central Falls	RI	2863	63,456
East Providence Housing Authority	99 Goldsmith Avenue	East Providence	RI	2914	24,470
Housing Authority of the City of Pawtucket	214 Roosevelt Avenue	Pawtucket	RI	2860	69,000
Housing Authority of the Town of East Greenwich.	146 First Avenue	East Greenwich	RI	2818	69,000
Narragansett Housing Authority	25 Fifth Avenue	Narragansett	RI	2882	69,000
Rhode Island Housing	44 Washington Street	Providence	RI	2903	183,618
The Housing Authority of the City of Providence.	100 Broad Street	Providence	RI	2903	127,744
Town of Coventry Housing Authority	14 Manchester Circle	Coventry	RI	2816	51,571
Town of Cumberland Housing Authority	573 Mendon Road, Suite 4	Cumberland	RI	2864	67,326
Town of North Providence Housing Authority	945 Charles Street	North Providence	RI	2904	20,020
Warwick Housing Authority	1035 West Shore Road	Warwick	RI	2889	69,000
Beaufort Housing Authority	P.O. Box 1104	Beaufort	SC	29901	43,260

APPENDIX A—FISCAL YEAR 2012 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER FAMILY SELF-SUFFICIENCY PROGRAM—Continued

Recipient	Address	City	State	Zip code	Amount
Housing Authority of Anderson	1335 East River Street	Anderson	SC	29624	38,622
Housing Authority of Greenville	511 Augusta Street	Greenville	SC	29605	54,187
Housing Authority of Myrtle Beach	P.O. Box 2468, 605 10th Avenue North	Myrtle Beach	SC	29577	68,680
Housing Authority of the City of Columbia, SC	1917 Harden Street	Columbia	SC	29204	46,815
North Charleston Housing Authority	2170 Ashley Phosphate Rd., Suite #700	North Charleston	SC	29406	47,500
Spartanburg Housing Authority	201 Caulder Avenue, Suite A	Spartanburg	SC	29306	51,000
The Housing Authority City of Charleston	550 Meeting Street	Charleston	SC	29403	52,136
Brookings County Housing Redevelopment Commission.	P.O. Box 432, 1310 South Main Avenue, Suite 106.	Brookings	SD	57006	37,823
Mobridge Housing and Redevelopment Commission.	P.O. Box 370, 202 1ST Avenue East	Mobridge	SD	57601	34,233
Sioux Falls Housing and Redevelopment Commission.	630 South Minnesota Avenue	Sioux Falls	SD	57104	73,865
Chattanooga Housing Authority	801 North Holtzclaw Avenue	Chattanooga	TN	37404	69,000
East Tennessee Human Resource Agency, Inc.	9111 Cross Park Drive, Suite D–100	Knoxville	TN	37923	34,750
Jackson Housing Authority	125 Preston Street	Jackson	TN	38301	102,010
Kingsport Housing & Redevelopment Authority.	P.O. Box 44, 906 East Sevier Avenue	Kingsport	TN	37662	93,084
Knoxville's Community Development Corporation.	P.O. Box 3550, 901 North Broadway	Knoxville	TN	37927	91,830
Memphis Housing Authority	700 Adams Avenue	Memphis	TN	38105	68,680
Oak Ridge Housing Authority	10 Van Hicks Lane	Oak Ridge	TN	37830	36,651
Tennessee Housing Development Agency	404 James Robertson Parkway, Suite 1200	Nashville	TN	37243	267,000
Town of Crossville Housing Authority	P.O. Box 425	Crossville	TN	38557	25,739
Anthony Housing Authority, Inc.	P.O. Box 1710	Anthony	TX	79821	37,988
Brazos Valley Council of Governments	P.O. Drawer 4128	Bryan	TX	77802	552,000
City of Amarillo	P.O. Box 1971	Amarillo	TX	79105	36,009
City of Garland Housing Agency	210 Carver, Suite 201B	Garland	TX	75040	51,368
City of Longview, Texas	P.O. Box 1952, 1202 North 6th Street	Longview	TX	75606	49,014
City of Tyler Housing Agency	900 West Gentry Parkway	Tyler	TX	75702	49,564
Dallas, County Of	2377 North Stemmons Freeway, Suite 600	Dallas	TX	75207	64,000
Deep East Texas Council of Governments	210 Premier Drive	Jasper	TX	75951	71,714
Housing Authority of Austin	P.O. Box 6159	Austin	TX	78762	138,975
Housing Authority of Bexar County	1017 North Main Avenue, Suite 201	San Antonio	TX	78212	50,000
Housing Authority of City of Fort Worth	P.O. Box 430, 1201 East 13th Street	Fort Worth	TX	76101	269,856
Housing Authority of the City of Abilene	534 Cypress Street, Suit 200	Abilene	TX	79601	48,320
Housing Authority of the City of Arlington	501 West Sanford Street, Suite 20	Arlington	TX	76011	162,702
Housing Authority of the City of Beaumont	1890 Laurel	Beaumont	TX	77701	41,080
Housing Authority of the City of Brownsville	2606 Boca Chica Boulevard	Brownsville	TX	78520	138,000
Housing Authority of the City of El Paso, TX	5300 East Paisano Drive	El Paso	TX	79905	52,710
Housing Authority of the City of Galveston	4700 Broadway	Galveston	TX	77551	59,151
Housing Authority of the City of Kingsville	1000 West Corral Avenue	Kingsville	TX	78363	54,823
Housing Authority of the City of Lubbock	1708 Crickets Avenue	Lubbock	TX	79401	39,390
Housing Authority of the City of Mission, Texas.	1300 East 8th	Mission	TX	78572	34,000
Housing Authority of the City of Pharr	104 West Polk	Pharr	TX	78577	37,501
Housing Authority of the City of Round Rock, Texas.	1505 Lance Lane	Round Rock	TX	78664	69,000
Housing Authority of the City of San Angelo, TX.	420 East 28th Street	San Angelo	TX	76903	49,000
Housing Authority of the City of San Antonio	818 South Flores Street	San Antonio	TX	78204	394,401
Housing Authority of the City of Waco	P.O. Box 978, 4400 Cobbs Drive	Waco	TX	76703	86,320
Housing Authority of the County of Hidalgo	1800 North Texas Boulevard	Weslaco	TX	78596	37,462
Houston Housing Authority	2640 Fountainview Drive	Houston	TX	77057	274,764
McAllen Housing Authority	2301 Jasmine Avenue	McAllen	TX	78501	22,500
Midland County Housing Authority	1710 Edwards	Midland	TX	79701	42,466
Montgomery County Housing Authority	1500 North Frazier, Suite 101	Conroe	TX	77301	43,122
Robstown Housing Authority	625 West Avenue F.	Robstown	TX	78380	15,600
San Marcos Housing Authority	1201 Thorpe Lane	San Marcos	TX	78666	51,260
Tarrant County Housing Assistance Office	2100 Circle Drive, 100 East Weatherford, Suite 500.	Fort Worth	TX	76119	194,081
Texoma Council of Governments	1117 Gallagher Drive	Sherman	TX	75090	65,862
The Housing Authority of the City of Dallas, Texas (DHA).	3939 North Hampton Road	Dallas	TX	75212	620,944
Walker County Housing Authority	340 State Highway North, Suite E	Huntsville	TX	77320	45,450
Cedar City Housing Authority	364 South 100 East	Cedar City	UT	84720	17,000
Davis Community Housing Authority	P.O. Box 328, 352 South 200 West, Suite 1	Farmington	UT	84025	41,131
Housing Authority of Salt Lake City	1776 South West Temple	Salt Lake City	UT	84115	101,804
Housing Authority of the City of Ogden	1100 Grant Avenue	Ogden	UT	84404	52,030

APPENDIX A—FISCAL YEAR 2012 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER FAMILY SELF-SUFFICIENCY PROGRAM—Continued

Recipient	Address	City	State	Zip code	Amount
Housing Authority of Utah County	240 E Center	Provo	UT	84606	53,539
Provo City Housing Authority	600 West 100 North	Provo	UT	84601	81,952
St. George Housing Authority	975 North 1725 West, #101	St. George	UT	84770	20,570
The Housing Authority of the County of Salt Lake.	3595 South Main Street	Salt Lake City	UT	84115	142,446
Tooele County Housing Authority	118 East Vine Street	Tooele	UT	84074	44,928
Alexandria Redevelopment and Housing Authority.	600 North Fairfax Street	Alexandria	VA	22314	69,000
Charlottesville Redevelopment and Housing Authority.	P.O. Box 1405	Charlottesville	VA	22902	49,780
Chesapeake Redevelopment & Housing Authority.	1468 South Military Highway	Chesapeake	VA	23320	100,819
City of Roanoke Redevelopment & Housing Authority.	2624 Salem Turnpike, North West	Roanoke	VA	24017	51,462
City of Virginia Beach	2424 Courthouse Drive, Building 18A	Virginia Beach	VA	23456	48,435
County of Loudoun	102 Heritage Way North East, Suite 103	Leesburg	VA	20176	67,326
Fairfax County Redevelopment & Housing Authority.	3700 Pender Drive, Suite 300	Fairfax	VA	22030	69,000
Franklin Redevelopment and Housing Authority.	601 Campbell Avenue	Franklin	VA	23851	34,300
Hampton Redevelopment & Housing Authority	P.O. Box 280, 1 Franklin Street, Suite 603	Hampton	VA	23669	50,813
Harrisonburg Redevelopment and Housing Authority.	286 Kelley Street	Harrisonburg	VA	22802	24,019
James City County Office of Housing & Community Development.	5320 Palmer Lane, Suite 1A	Williamsburg	VA	23188	23,990
Newport News Redevelopment and Housing Authority.	227 27th Street	Newport News	VA	23607	99,658
Norfolk Redevelopment and Housing Authority.	201 Granby Street	Norfolk	VA	23510	194,175
Portsmouth Redevelopment and Housing Authority.	801 Water Street, 2nd Floor	Portsmouth	VA	23704	85,592
Prince William County OHCD	15941 Donald Curtis Drive, Suite 112	Woodbridge	VA	22191	69,000
Richmond Redevelopment and Housing Authority.	901 Chamberlayne Parkway	Richmond	VA	23220	66,791
Suffolk Redevelopment and Housing Authority	530 East Pinner Street	Suffolk	VA	23434	64,056
Waynesboro Redevelopment and Housing Authority.	P.O. Box 1138, 1700 New Hope Road	Waynesboro	VA	22980	39,031
Brattleboro Housing Authority	P.O. Box 2275	Brattleboro	VT	5303	69,000
Burlington Housing Authority	65 Main Street	Burlington	VT	5401	101,685
Vermont State Housing Authority	One Prospect Street	Montpelier	VT	5602	234,998
Columbia Gorge Housing Authority	312 Court Street, Suite 419	The Dalles	WA	97058	54,000
Housing Authority City of Kelso	1415 South 10th	Kelso	WA	98626	18,766
Housing Authority City of Longview	820 11th Avenue	Longview	WA	98632	80,655
Housing Authority of Chelan County and the City of Wenatchee.	1555 South Methow	Wenatchee	WA	98801	16,083
Housing Authority of Island County	7 North West 6th Street	Coupeville	WA	98239	48,267
Housing Authority of Skagit County	1650 Port Drive	Burlington	WA	98233	49,000
Housing Authority of the City of Bremerton	P.O. Box 2189, 4040 Wheaton Way	Bremerton	WA	98310	66,717
Housing Authority of the City of Pasco and Franklin County.	2505 West Lewis Street	Pasco	WA	99301	50,160
Housing Authority of the City of Tacoma	902 South L Street	Tacoma	WA	98405	138,000
Housing Authority of the City of Vancouver	2500 Main Street, Suite 200	Vancouver	WA	98660	128,442
Housing Authority of the City of Yakima	810 North 6th Avenue	Yakima	WA	98902	55,000
Housing Authority of Thurston County	1206 12th Ave Southeast	Olympia	WA	98501	132,428
King County Housing Authority	600 Andover Park West	Tukwila	WA	98188	260,924
Kitsap County Consolidated Housing Authority	345 Sixth Street, Suite 100	Bremerton	WA	98337	25,756
Peninsula Housing Authority	2603 South Francis Street	Port Angeles	WA	98362	94,170
Pierce County Housing Authority	P.O. Box 45410, 603 South Polk Street	Tacoma	WA	98448	199,000
Seattle Housing Authority	190 Queen Anne Avenue North	Seattle	WA	98109	345,000
Appleton Housing Authority	925 West Northland Avenue	Appleton	WI	54914	49,600
Brown County Housing Authority	100 North Jefferson Street	Green Bay	WI	54301	135,462
City of Kenosha Housing Authority	625 52nd Street, Room 98	Kenosha	WI	53140	67,266
Dane County Housing Authority	2001 West Broadway, Suite 1	Monona	WI	53713	38,572
Dunn County Housing Authority	1421 Stout Road	Menomonie	WI	54751	18,698
Housing Authority of Racine County	837 Main Street	Racine	WI	53403	66,190
Housing Authority of the City of Milwaukee	P.O. Box 324	Milwaukee	WI	53201	69,000
Sauk County Housing Authority	P.O. Box 147, 1221 8th Street	Baraboo	WI	53913	52,332
Winnebago County Housing Authority	600 Merritt Avenue	Oshkosh	WI	54901	69,000
Benwood—McMechen Housing Authority	2200 Marshall Street	Benwood	WV	26031	13,851

APPENDIX A—FISCAL YEAR 2012 FUNDING AWARDS FOR THE HOUSING CHOICE VOUCHER FAMILY SELF-SUFFICIENCY PROGRAM—Continued

Recipient	Address	City	State	Zip code	Amount
Clarksburg-Harrison Regional Housing Authority.	433 Baltimore Avenue	Clarksburg	WV	26301	34,028
Greenbrier Housing Authority	Route 2 Box 142	Lewisburg	WV	24901	30,936
Housing Authority of Mingo County	P.O. Box 120, 5026 Helena Avenue	Delbarton	WV	25670	34,500
Parkersburg Housing Authority	1901 Cameron Avenue	Parkersburg	WV	26101	45,136
Randolph County Housing Authority	P.O. Box 1579, 1404 North Randolph Avenue	Elkins	WV	26241	22,736
The Housing Authority of the City of Fairmont	P.O. Box 2738, 103 12th Street	Fairmont	WV	26555	30,186
The Huntington West Virginia Housing Authority.	300 West Seventh Avenue	Huntington	WV	25701	36,960

[FR Doc. 2013–11612 Filed 5–14–13; 8:45 am]
BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

[NPS–NER–BOHA–12921; PPMPSPD1Z.YM0000; PPNEBOHAS1]

Boston Harbor Islands Advisory Council Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of Meeting.

SUMMARY: This notice announces a meeting of the Boston Harbor Islands Advisory Council. The agenda includes a presentation by author John Galluzzo, "Peddocks Island, As Seen from Pemberton Point" and a park update.

DATES: *Date/Time:* June 5, 2013, 4:00 p.m. to 6:00 p.m. (EASTERN).

Location: Boston Society of Architects, 290 Congress St., Channel Room, Boston, MA 02110.

FOR FURTHER INFORMATION CONTACT: Bruce Jacobson, DFO, Boston Harbor Islands National Recreation Area, 15 State Street, Suite 1100, Boston, MA 02109; telephone (617) 223–8669; email *Bruce_Jacobson@nps.gov*.

SUPPLEMENTARY INFORMATION: This meeting open to the public. Those wishing to submit written comments may contact the Designated Federal Official (DFO) for the Boston Harbor Islands Advisory Council, Bruce Jacobson, by mail at State Street, Suite 1100, Boston, MA 02109. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

The Advisory Council was appointed by the Director of the National Park Service pursuant to Public Law 104–333. The purpose of the Council is to advise and make recommendations to the Boston Harbor Islands Partnership with respect to the implementation of a management plan and park operations. Efforts have been made locally to ensure that the interested public is aware of the meeting dates.

Bruce Jacobson,

DFO, Boston Harbor Islands NRA, Northeast Region.

[FR Doc. 2013–11568 Filed 5–14–13; 8:45 am]
BILLING CODE 4310–WV–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–ES–2013–N112; FXES1112090000–134–FF09E31000]

Proposed Information Collection; Fish and Wildlife Service Conservation Banking Survey

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service, Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: To ensure that we are able to consider your comments on this IC, we must receive them by July 15, 2013.

ADDRESSES: Send your comments on the IC to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 2042–PDM, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); or *hope_grey@fws.gov* (email). Please include "1018—NEW" in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Hope Grey at *hope_grey@fws.gov* (email) or 703–358–2482 (telephone).

SUPPLEMENTARY INFORMATION:

I. Abstract

Conservation banks are permanently protected lands that contain natural resource values, which are conserved and permanently managed for species that are endangered, threatened, candidates for listing as endangered or threatened, or are otherwise species-at-risk. The habitat preserved, restored, or established in conservation banks is used to offset adverse impacts to species that occurred elsewhere. We approve habitat or species credits that bank owners may sell in exchange for permanently protecting and managing habitat for these species. We began approving conservation banks in the early 1990s, and 105 banks have been approved as of March 2013.

The Service and the Department of the Interior's Office of Policy Analysis are conducting an analysis to identify potential institutional or other impediments to the habitat conservation banking program, and develop possible options for encouraging expanded use of the program. We plan to ask OMB for approval to implement surveys of conservation bank sponsors and purchasers of conservation banking credits. The surveys will benefit the Service by helping to identify constraints in the current conservation banking program, and thus provide important information for developing recommendations for further expansion or perhaps changes to the program.

We will use information from the Regulatory In lieu fee and Bank Information Tracking System (RIBITS) database and other sources to obtain contact information for bank sponsors and bank credit purchasers. We plan to survey the entire sample of entities taking part in our habitat conservation banking program, and a random sample of entities that have purchased bank credits. We plan to collect:

(1) Background information on the bank(s) and credit purchasers.

(2) Information about experience with the conservation banking program.

(3) Perceptions of technical and institutional obstacles encountered in the conservation banking program.

(4) Perceptions of incentives that would help foster successful banks.

(5) Information about the choice of conservation bank credit purchase compared to other mitigation options for bank credit purchasers.

II. Data

OMB Control Number: 1018–XXXX. This is a new collection.

Title: Fish and Wildlife Service Conservation Banking Survey.

Service Form Number: None.

Type of Request: Request for a new OMB control number.

Description of Respondents: Representatives from conservation banks and purchasers of conservation bank credits.

Respondent's Obligation: Voluntary.

Frequency of Collection: One time.

Activity	Number of respondents	Number of responses	Completion time per response (minutes)	Total annual burden hours
Survey of conservation bank representatives	75	75	25	1,875
Survey of conservation bank purchasers	100	100	25	2,500
TOTALS	175	175		4,375

Estimated Annual Nonhour Burden Cost: None.

III. Comments

We invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: May 9, 2013.

Tina A. Campbell,

Chief, Division of Policy and Directives Management, U.S. Fish and Wildlife Service.

[FR Doc. 2013–11536 Filed 5–14–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO250000.L12200000.EA0000]

Renewal of Approved Information Collection

AGENCY: Bureau of Land Management, Interior.

ACTION: 60-Day notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act, the Bureau of Land Management (BLM) invites public comments on, and plans to request approval to continue, the collection of information needed to evaluate and process applications for commercial, competitive, and organized group recreational uses of the public lands, and individual use of special areas. The Office of Management and Budget (OMB) has assigned control number 1004–0119 to this information collection.

DATES: Please submit comments on the proposed information collection by July 15, 2013.

ADDRESSES: Comments may be submitted by mail, fax, or electronic mail.

Mail: U.S. Department of the Interior, Bureau of Land Management, 1849 C Street NW., Room 2134LM, Attention: Jean Sonneman, Washington, DC 20240.

Fax: to Jean Sonneman at 202–245–0050.

Electronic mail: *Jean_Sonneman@blm.gov.*

Please indicate "Attn: 1004–0119" regardless of the form of your comments.

FOR FURTHER INFORMATION CONTACT: David Ballenger, at 202–912–7642. Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, to leave a message for Mr. Ballenger.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act, 44 U.S.C. 3501–3521, require that interested members of the public and affected agencies be given an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d) and 1320.12(a)). This notice identifies an information collection that the BLM plans to submit to OMB for approval. The Paperwork Reduction Act provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

The BLM will request a 3-year term of approval for this information collection activity. Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) The accuracy of the agency's burden estimates; (3) Ways to enhance the quality, utility and clarity of the information collection; and (4) Ways to minimize the information collection burden on respondents, such as use of automated means of collection of the

information. A summary of the public comments will accompany our submission of the information collection requests to OMB.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

The following information is provided for the information collection:

Title: Permits for Recreation on Public Lands (43 CFR part 2930).

OMB Control Number: 1004–0119.

Summary: This notice pertains to an information collection that is necessary for the management of recreation on public lands. The BLM is required to manage commercial competitive and organized group recreational uses of the public lands, and individual use of special areas. This information allows the BLM to collect the required information to authorize and collect fees for recreation use on public lands. The currently approved information collection consists of the collection of non-form information in accordance with 43 CFR part 2930, and Form 2930–1 (Special Recreation Permit Application). Responses are required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Forms: Form 2930–1, Special Recreation Permit Application.

Description of Respondents: Applicants for recreational use of public lands managed by the BLM.

Estimated Annual Responses: 1,208.

Estimated Annual Burden Hours: 4,832, based on 4 hours per response; 1,208 responses.

Estimated Annual Non-Hour Costs: Respondents are not required to purchase additional computer hardware or software to comply with this information collection. There are no fees involved with this information collection.

Jean Sonneman,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 2013–11572 Filed 5–14–13; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCA 942000 L57000000 BX0000]

Filing of Plats of Survey: California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of lands described below are scheduled to be officially filed in the Bureau of Land Management California State Office, Sacramento, California, thirty (30) calendar days from the date of this publication.

ADDRESSES: A copy of the plats may be obtained from the California State Office, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825, upon required payment.

Protest: A person or party who wishes to protest a survey must file a notice that they wish to protest with the California State Director, Bureau of Land Management, 2800 Cottage Way, Sacramento, California, 95825.

FOR FURTHER INFORMATION CONTACT: Chief, Branch of Geographic Services, Bureau of Land Management, California State Office, 2800 Cottage Way, Room W–1623, Sacramento, California 95825, (916) 978–4310.

SUPPLEMENTARY INFORMATION: These surveys were executed to meet the administrative needs of various federal agencies; the Bureau of Land Management, Bureau of Indian Affairs, or Bureau of Reclamation. The lands surveyed are:

Mount Diablo Meridian, California

T. 33 N., R. 10 W., supplemental plat of the S ½ of section 18 accepted April 15, 2013.
T. 26 N., R. 15 E., dependent resurvey and subdivision of section accepted April 16, 2013.
T. 12 N., R. 18 E., dependent resurvey and subdivision of sections 12 and 13 accepted April 23, 2013.

San Bernardino Meridian, California

T. 8 N., R. 6 E., amended dependent resurvey accepted March 12, 2013.
T. 9 N., R. 5 E., amended dependent resurvey accepted March 12, 2013.
T. 9 N., R. 6 E., amended dependent resurvey accepted March 12, 2013.
T. 18 S., R. 5 E., dependent resurvey and subdivision of section 23 accepted April 16, 2013.
T. 2 N., R. 3 W., dependent resurvey and informative traverse accepted April 18, 2013.

Authority: 43 U.S.C., Chapter 3.

Dated: May 7, 2013.

Lance J. Bishop,

Chief Cadastral Surveyor, California.

[FR Doc. 2013–11545 Filed 5–14–13; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCON06000–L16100000–DP0000]

Notice of Dominguez-Escalante National Conservation Area Advisory Council Meeting Cancellation and Reschedule

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meeting Cancellation and Reschedule

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), notice is hereby given that the Dominguez-Escalante National Conservation Area Advisory Council meeting scheduled for May 29, 2013, at the Bill Heddles Recreation Center, 530 Gunnison River Drive, Delta, CO, has been cancelled and rescheduled to take place on June 26, 2013, at the Bill Heddles Recreation Center, 530 Gunnison River Drive, Delta, CO. Notice of the original meeting appeared in the **Federal Register** on April 11, 2013.

DATES: The cancelled meeting was scheduled for May 29, 2013, from 3 p.m. to 6 p.m. The rescheduled meeting will take place on June 26, 2013, from 3 p.m. to 6 p.m.

FOR FURTHER INFORMATION CONTACT: Shannon Borders, Southwest District Public Affairs Specialist, BLM Southwest District Office, 2465 South Townsend Ave., Montrose, CO 81401. Phone: (970) 240–5399. Email: *sborders@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 resource management planning process for the Dominguez-Escalante National Conservation Area and Dominguez

Canyon Wilderness. Future meetings will be announced through a separate **Federal Register** notice. For more information about the Dominguez-Escalante National Conservation Area Advisory Council, visit *http://www.blm.gov/co/st/en/nca/denca/denca_rmp/DENCA_Resource_Advisory_Council.html.*

Dated: May 7, 2013.

Helen M. Hankins,

BLM Colorado State Director.

[FR Doc. 2013–11370 Filed 5–14–13; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAN01000.L18200000.XZ0000; 13–00160–ILM]

Notice of Public Meeting: Joint session of Northeast California Resource Advisory Council and Northwest California Resource Advisory Council, and Individual Council Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 (FLPMA), and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Northeast California Resource Advisory Council and Northwest California Resource Advisory Council will meet jointly and individually, as indicated below, in Weaverville, Calif.

DATES: On Tuesday, June 11, 2013, the Northeast California RAC will meet from 1 to 5 p.m. Public comments will be accepted at 4 p.m. On Wednesday, June 12, 2013, the Northeast California RAC and Northwest California RAC will convene at 8 a.m. for a field tour of public lands managed by the BLM. The councils will convene a joint business meeting at 1 p.m. and accept public comments at 4 p.m. On Thursday, June 13, 2013, the Northwest California RAC will convene at 8 a.m. Public comments will be accepted at 11 a.m. All meetings and the field tour will convene at the Weaverville VFW Hall, 201 Memorial St.

FOR FURTHER INFORMATION CONTACT: Nancy Haug, BLM Northern California District manager, (530) 224–2160; or Joseph J. Fontana, BLM public affairs officer, (530) 252–5332.

SUPPLEMENTARY INFORMATION: These councils advise the Secretary of the Interior, through the BLM, on public land planning and resource management issues in northern California and far northwest Nevada. Agenda items for the Northeast California RAC meeting include the RAC's role in BLM resource management plan amendments for sage grouse conservation, a status report on wildfire recovery efforts and a discussion of major resource issues affecting the Alturas, Eagle Lake and Surprise field offices. Agenda items for the joint session include BLM partnerships, major BLM initiatives and future RAC work. Agenda items for the Northwest California RAC include work planning, off highway vehicle recreation management, the BLM-California State Parks Coastal Collaborative, land use planning issues and management of the California Coastal National Monument. The council will accept public comments as indicated above. Depending on the number of persons wishing to speak, and the time available, the time for individual comments may be limited. Members of the public are welcome on the field tour. They must provide their own transportation, food and beverages. Individuals who plan to attend and need special assistance, such as sign language interpretation and other reasonable accommodations, should contact the BLM as provided above.

Dated: May 3, 2013.

Joseph J. Fontana,

Public Affairs Officer.

[FR Doc. 2013–11534 Filed 5–14–13; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–PWR–PWRO–12262; PPPWGOGAY0 PPMPSAS1Z.YP0000]

Notice of Approval of Record of Decision for Extending F-Line Streetcar Service to Fort Mason Center, Golden Gate National Recreation Area and San Francisco Maritime National Historic Park, City and County of San Francisco, California

AGENCY: National Park Service, Interior.

ACTION: Notice of Record of Decision.

SUMMARY: Pursuant to § 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91–190, as amended) and the regulations promulgated by the Council on Environmental Quality (40 CFR Part 1505.2), the Department of the Interior, National Park Service, in collaboration with the City and County of San Francisco, the San Francisco Municipal Transportation Agency (SFMTA), the Presidio Trust, and the Federal Transit Administration, has prepared the Record of Decision for the Final Environmental Impact Statement (Final EIS) for extending the F-Line historic streetcar service to Fort Mason Center. The requisite no-action "wait period" was initiated on February 24, 2012, with the Environmental Protection Agency's **Federal Register** notification of the filing and public release of the Final EIS.

Decision: Golden Gate National Recreation Area and San Francisco Maritime National Historic Park intend to authorize SFMTA to construct, maintain, and operate an extension of the F-Line historic streetcar service onto National Park Service (NPS) property. The actions to be authorized by NPS include: retrofitting of the historic State Belt Railroad tunnel for single track streetcar use; constructing a turnaround terminus at the Fort Mason Center; and installing appurtenant features such as signals, crossings, wires and poles, and new platforms and designated stops. The complete Project elements and resource stewardship strategies are identified and analyzed in the *Preferred Alternative* (Alternative 2 and Turnaround Option 2A) presented in the Final EIS (available on-line at *http://parkplanning.nps.gov/streetcar*). The full range of foreseeable environmental consequences was assessed, and appropriate mitigation measures identified. The selected alternative was deemed to be the "environmentally preferred" course of action.

Interested parties desiring to review the Record of Decision may obtain a copy by contacting the General Superintendent, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, CA 94123 or via telephone request at (415) 561–2841.

Dated: February 4, 2013.

Christine S. Lehnertz,

Regional Director, Pacific West Region.

[FR Doc. 2013–11569 Filed 5–14–13; 8:45 am]

BILLING CODE 4312–FF–P

INTERNATIONAL TRADE COMMISSION

[Docket No. 2953]

Certain Windshield Wiper Devices and Components Thereof; 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 Windshield Wiper Devices and Components Thereof,* DN 2953; 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.

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 Federal-Mogul Corporation and Federal-Mogul S.A. on May 9, 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 windshield wiper devices and components thereof. The complaint names as respondents Trico Corporation of MI; Trico Products of TX; and Trico Components of Mexico.

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. 2953") 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)).

Issued: May 9, 2013.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–11505 Filed 5–14–13; 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.*

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. TA–131–038 and TA–2104–030

U.S.-Trans-Pacific Partnership Free Trade Agreement Including Japan: Advice on the Probable Economic Effect of Providing Duty-Free Treatment for Imports

AGENCY: United States International Trade Commission.

ACTION: Institution of investigations and scheduling of hearing.

SUMMARY: Following receipt on April 30, 2013, of a request from the United States Trade Representative (USTR), the Commission instituted investigation Nos. TA–131–038 and TA–2104–030, *U.S.-Trans-Pacific Partnership Free Trade Agreement Including Japan: Advice on the Probable Economic Effect of Providing Duty-Free Treatment for Imports.*

DATES: May 28, 2013: Deadline for filing requests to appear at the public hearing.

May 29, 2013: Deadline for filing pre-hearing briefs and statements.

June 11, 2013: Public hearing.

June 17, 2013: Deadline for filing post-hearing briefs and statements.

June 17, 2013: Deadline for filing all other written submissions.

August 21, 2013: Transmittal of Commission report to the USTR.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://www.usitc.gov/secretary/edis.htm.*

FOR FURTHER INFORMATION CONTACT: Karl Tsuji, Project Leader (202–205–3434 or *karl.tsuji@usitc.gov),* or Kathryn Lundquist, Deputy Project Leader (202–205–2563 or *kathryn.lundquist@usitc.gov),* for information specific to these investigations. For information on the legal aspects of these investigations, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or *margaret.olaughlin@usitc.gov*). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server *(http://www.usitc.gov).* Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

Background: In his letter of April 30, 2013, the USTR advised the Commission that he has informed the Congress of the President's intention to commence negotiations with Japan in the context of the Trans-Pacific Partnership (TPP) negotiations, and accordingly is requesting that the Commission provide certain advice under section 131 of the Trade Act of 1974 (19 U.S.C. 2151) and an assessment under section 2104(b)(2) of the Trade Act of 2002 (19 U.S.C. 3804(b)(2)) with respect to the effects of providing duty-free treatment for imports from all 11 countries.

More specifically, the USTR, under authority delegated by the President and pursuant to section 131 of the Trade Act of 1974, requested that the Commission provide a report containing its advice as to the probable economic effect of providing duty-free treatment for imports of products from Japan and the other ten countries currently participating in the TPP negotiations (Australia, Brunei Darussalam, Canada, Chile, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam) on (i) industries in the United States producing like or directly competitive products, and (ii) consumers. The USTR asked that the Commission's analysis consider each article in chapters 1 through 97 of the Harmonized Tariff Schedule of the United States (HTS) for which tariffs will remain, taking into account implementation of U.S. commitments in the World Trade Organization and under U.S. free trade agreements in force between the United States and TPP negotiating partner countries. The USTR asked that the advice be based on the HTS in effect during 2013 and trade data for 2012. The USTR also requested that the Commission, in preparing its advice, assume that any known U.S. nontariff barriers will not be applicable to such imports, and that the Commission note in its report any instance in which the continued application of a U.S. nontariff barrier would result in different advice with respect to the effect of the removal of the duty.

In addition, the USTR requested that the Commission prepare an assessment, as described in section 2104(b)(2) of the Trade Act of 2002, of the probable economic effects of eliminating tariffs on imports from the eleven countries of those agricultural products on the list attached to his letter on (i) industries in the United States producing the product concerned, and (ii) the U.S. economy as a whole. The USTR's request and list of agricultural products are posted on the Commission's Web site at *www.usitc.gov.* The USTR asked that the Commission identify in its report, among other things, any changes in its advice from the advice delivered on the TPP on November 19, 2012, that did not include Japan. The USTR also stated that the Commission need not repeat analysis and discussion included in that earlier report.

As requested, the Commission will provide its report to the USTR by August 21, 2013. The USTR indicated that those sections of the Commission's report that relate to the advice and assessment of probable economic effects will be classified. The USTR also indicated that he considers the Commission's report to be an inter-agency memorandum that will contain pre-decisional advice and be subject to the deliberative process privilege.

This is the fourth such request that the Commission has received from the USTR with respect to the TPP negotiations. In response to an earlier request by the USTR after Canada and Mexico joined the negotiations, the Commission, delivered a report to the USTR on November 19, 2012, containing its advice and assessment in investigation Nos. TA–131–036 and TA–2104–028, *U.S.-Trans-Pacific Partnership Free Trade Agreement Including Canada and Mexico: Advice on Probable Economic Effect of Providing Duty-Free Treatment for Imports,* relating to the effects of a possible free trade agreement with ten countries.

In response to another request by the USTR after Malaysia joined the negotiations, the Commission delivered a report to the USTR on January 7, 2011, containing its advice and assessment in investigation Nos. TA–131–035 and TA–2104–027, *U.S.-Trans-Pacific Partnership Free Trade Agreement Including Malaysia: Advice on Probable Economic Effect of Providing Duty-Free Treatment for Imports* after Malaysia joined the negotiations, providing certain advice on the effects of providing duty-free treatment for imports for the eight countries.

In response to the initial request from the USTR, the Commission delivered a report to the USTR on June 2, 2010, containing its advice and assessment in investigation Nos. TA–131–034 and TA–2104–026, *U.S.-Trans-Pacific Partnership Free Trade Agreement: Advice on Probable Economic Effect of Providing Duty-Free Treatment for Imports,* relating to the effects of a possible free trade agreement with seven countries (Australia, Brunei Darussalam, Chile, New Zealand, Peru, Singapore, and Vietnam).

Public Hearing: A public hearing in connection with these investigations will be held at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC, beginning at 9:30 a.m., June 11, 2013. Requests to appear at the public hearing should be filed with the Secretary not later than 5:15 p.m., May 28, 2013. All pre-hearing briefs and statements should be filed not later than 5:15 p.m., May 29, 2013; and all post-hearing briefs and statements should be filed not later than 5:15 p.m., June 17, 2013. All briefs should be filed in accordance with the requirements in the "Submissions" section below.

Written Submissions: In lieu of or in addition to participating in the hearing and filing briefs and statements relating to the hearing, interested parties are invited to file written submissions concerning these investigations. All written submissions should be addressed to the Secretary, and should be received not later than 5:15 p.m., June 17, 2013. All written submissions must conform to the provisions of

section 201.8 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 and the Commission's Handbook on Filing Procedures require that interested parties file documents electronically on or before the filing deadline and submit eight (8) true paper copies by 12:00 noon eastern time on the next business day. In the event that confidential treatment of a document is requested, interested parties must file, at the same time as the eight (8) paper copies, at least four (4) additional true paper copies in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any submissions that contain confidential business information must also conform to the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the "confidential" or "non-confidential" version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties.

The Commission may include some or all of the confidential business information submitted in the course of the investigations in the report it sends to the USTR. The Commission will not otherwise publish any confidential business information in a manner that would reveal the operations of the firm supplying the information.

Issued: May 9, 2013.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–11503 Filed 5–14–13; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–82,289]

American Airlines, a Subsidiary of AMR Corporation, Tulsa International Airport, Fleet Services Clerks, Tulsa, Oklahoma; Notice of Negative Determination Regarding Application for Reconsideration

By application dated April 1, 2013, the State of Oklahoma Employment Security Commission requested administrative reconsideration of the Department of Labor's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of American Airlines, a subsidiary of AMR Corporation, Tulsa International Airport, Fleet Service Clerks, Tulsa, Oklahoma. American Airlines supplies air transportation services. The subject worker group is engaged in activities related to the supply of cargo and baggage handling services and servicing aircraft interiors. The Department's Notice of determination was issued on March 5, 2013 and published in the **Federal Register** on March 26, 2013 (78 FR 18370).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The TAA petition, filed by three workers, stated "aircraft maintenance has been outsourced to China" and that the fleet services clerks "cleaned aircraft and did light maintenance items such as upholstery, rugs, drafts, and other items."

The negative determination was based on the findings of the initial investigation that revealed that American Airlines did not import the supply of services like or directly competitive with the aircraft interior maintenance services supplied by the subject worker group. The Department did not conduct a customer survey because the aircraft interior maintenance services supplied by the Fleet Service Clerks are used internally by American Airlines.

The investigation also revealed that the subject worker group separations are not attributable to a shift of aircraft interior maintenance services to a foreign country or to an acquisition of such services from a foreign country by the subject firm.

Further, the investigation revealed that the subject firm is neither a Supplier nor a Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, 19 U.S.C. 2272(a).

Finally, the investigation revealed that the group eligibility requirements under Section 222(e) of the Act were not satisfied because the workers' firm has not been publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in an affirmative finding of serious injury, market disruption, or material injury, or threat thereof.

The request for reconsideration states: "It is the belief of the employees that their jobs were directly or indirectly affected due to a shift in aircraft maintenance/repair services which are now being performed overseas. The Fleet Service Clerks were responsible for servicing aircraft interiors. Since those aircraft are now receiving maintenance overseas, the duty of servicing the interiors of the affected aircraft is no longer being conducted in Tulsa." The request for reconsideration did not include documents in support of the request.

The request for reconsideration did not supply facts not previously considered nor provided additional documentation indicating that there was either (1) a mistake in the determination of facts not previously considered or (2) a misinterpretation of facts or of the law justifying reconsideration of the initial determination. Based on these findings, the Department determines that 29 CFR 90.18(c) has not been met.

Conclusion

After careful review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed in Washington, DC, this 29th day of April, 2013.

Del Min Amy Chen,,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–11478 Filed 5–14–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–82,286]

Oshkosh Defense, a Subsidiary of Oshkosh Corporation, Including On-Site Leased Workers From Acountemps, Advantage Federal Resourcing, Aerotek, Cadre, Dyncorp International, EDCI IT Services, LLC, Landmark Staffing Resources, Inc., Larsen and Toubro Limited, MRI Network/Manta Resources, Inc., Omni Resources, Premier Temporary Staffing, Retzlaff Parts and Repair, Roman Engineering, Straight Shot Express, Inc., Teksystems, and Labor Ready, Oshkosh, Wisconsin; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated March 15, 2013, a representative of the United Auto Workers (UAW), Local 578, requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for Trade Adjustment Assistance (TAA) applicable to workers and former workers of Oshkosh Defense, a subsidiary of Oshkosh Corporation, Oshkosh, Wisconsin (subject firm). The negative determination was issued on February 22, 2013. Workers at the subject firm were engaged in activities related to the production of military, logistical, and tactical vehicles. The workers are not separately identifiable by article produced. The subject worker group includes workers at various facilities in Oshkosh, Wisconsin who are engaged in production of, and administrative functions in support of, the articles produced by the subject firm.

The subject worker group also includes on-site leased workers from Acountemps, Advantage Federal Resourcing, Aerotek, Cadre, Dyncorp International, EDCi IT Services, LLC, Landmark Staffing Resources, Inc., Larsen and Toubro Limited, MRI Network/Manta Resources, Inc., Omni Resources, Premier Temporary Staffing, Retzlaff Parts and Repair, Roman Engineering, Straight Shot Express, Inc., Teksystems, and Labor Ready.

The initial investigation resulted in a negative determination based on the Department's findings that Oshkosh Defense did not import, during the relevant time period, components like or directly competitive with those produced by Oshkosh Defense or finished products using foreign-produced component parts that are like or directly competitive with those manufactured by Oshkosh Defense.

With respect to Section 222(a)(2)(B) of the Act, the investigation revealed that Oshkosh Defense did not shift the production of military, logistical, and tactical vehicles, or like or directly competitive articles, to a foreign country or acquire such articles from a foreign country.

With respect to Section 222(b)(2) of the Act, the investigation revealed that Oshkosh Defense is not a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, 19 U.S.C. 2272(a).

Finally, the group eligibility requirements under Section 222(e) of the Act, have not been satisfied because the workers' firm has not been publically identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in an affirmative finding of serious injury, market disruption, or material injury, or threat thereof.

The request for reconsideration alleges that the Department has issued a determination for a worker group other than the one identified by the UAW in its petition. Specifically, the UAW states that the subject firm is Oshkosh Corporation and that UAW has a collective bargaining agreement with Oshkosh Corporation.

The request for reconsideration also alleges that the Department has misunderstood the articles produced at the subject facility. Specifically, the UAW states that the subject facility produces articles for both military and commercial use.

The request for reconsideration also asserts that an article or a component part for military use is like or directly competitive with the same one for commercial use.

In reviewing the administrative record, the Department notes that the subject firm in the petition is identified as both Oshkosh Corporation and Oshkosh Truck and that Exhibit A of the petition is a Worker Adjustment and Retraining Notification Act ("WARN") letter from Oshkosh Defense.

The Department has carefully reviewed the request for reconsideration and the existing record, and will conduct further investigation to properly identify the subject worker group and to determine if the subject worker group meets the eligibility requirements of the Trade Act of 1974, as amended.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 29th day of April, 2013.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–11481 Filed 5–14–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–81,557; TA–W–81,557A; TA–W–81,557B; TA–W–81,557C; ;TA–W–81,557D; Ta–W–81,557e]

Te Connectivity, Industrial Division, Middletown, Pennsylvania; Te Connectivity, Corporate Shared Services Group 100 & 200 Amp Drive, Harrisburg, Pennsylvania; Te Connectivity Corporate Shared Services Group, 3700 Reidsville Road, Winston-Salem, North Carolina; Te Connectivity, Corporate Shared Services Group, 1187 Park Place, Shakopee, Minnesota; Te Connectivity, Corporate Shared Services Group, 250 Industrial Way, Eatontown, New Jersey; Te Connectivity, Global Headquarters, 1050 Westlakes Drive, Berwyn, Pennsylvania; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), as amended, and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility To Apply for Worker Adjustment Assistance on June 22, 2012, applicable to workers and former workers of TE Connectivity, Industrial Division, Middletown, Pennsylvania (TA–W–81,557). The workers' firm is engaged in activities related to the production of electrical connectors.

At the request of the subject firm, the Department reviewed the certification for workers of the subject firm.

New information provided by the subject firm revealed that the Middletown, Pennsylvania facility is supported by workers in the subject firm's auxiliary facilities located at Harrisburg, Pennsylvania, Winston-Salem, North Carolina, Shakopee, Minnesota, Eatontown, New Jersey, and Berwyn, Pennsylvania.

The intent of the Department's certification is to include all workers at the subject firm who are adversely affected by the subject firm's shift of production to a foreign country.

Based on these findings, the Department is amending this certification to include workers at these auxiliary facilities.

The amended notice applicable to TA–W–81,557 is hereby issued as follows:

All workers of TE Connectivity, Industrial Division, Middletown, Pennsylvania (TA–W–81,557), TE Connectivity, Corporate Shared Services Group, 100 & 200 Amp Drive, Harrisburg, Pennsylvania (TA–W–81,557A), TE Connectivity, Corporate Shared Services Group, 3700 Reidsville Road, Winston-Salem, North Carolina (TA–W–81,557B), TE Connectivity, Corporate Shared Services Group, 1187 Park Place, Shakopee, Minnesota (TA–W–81,557C), TE Connectivity, Corporate Shared Services Group, 250 Industrial Way, Eatontown, New Jersey (TA–W–81,557D) and TE Connectivity, Global Headquarters, Berwyn, Pennsylvania (TA–W–81,557E), who became totally or partially separated from employment on or after April 27, 2011, through June 22, 2014, and all workers in the group threatened with total or partial separation from employment on June 22, 2012 through June 22, 2014, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 26th day of April, 2013.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–11471 Filed 5–14–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–82,035]

Georgia Pacific LLC, Also Doing Business as Duluth Hardboard Plant, Specialty Manufacturing Division, a Subsidiary of Koch Industries, Including On-Site Leased Workers of DS&E Company, Duluth, Minnesota; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on February 14, 2103, applicable to workers of Georgia Pacific, LLC, also doing business as Duluth Hardboard Plant, Specialty Manufacturing Division, a subsidiary of Koch Industries, Duluth, Minnesota (subject firm). The workers produce hardboard.

At the request of the State of Minnesota, the Department reviewed the certification for workers of the subject firm.

The intent of the Department's certification is to include all workers at the subject firm who were adversely affected by increased imports of hardboard.

The Department has determined that these workers of DS&E Company were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from DS&E Company working on-site at the subject firm.

The amended notice applicable to TA–W–82,035 is hereby issued as follows:

All workers of Georgia Pacific, LLC, also doing business as Duluth Hardboard Plant, Specialty Manufacturing Division, a subsidiary of Koch Industries, including on-site leased workers of DS&E Company, Duluth, Minnesota, who became totally or partially separated from employment on or after October 2, 2011 through February 14, 2015, and all workers in the group threatened with total or partial separation from employment on February 14, 2013 through February 14, 2015 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed in Washington, DC, this 26th day of April, 2013.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–11472 Filed 5–14–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

TA–W–80,340; TA–W–80,340A; TA–W–80,340B]

Bush Industries, Inc., Mason Drive Facility, Including On-Site Leased Workers From Morris Security Services and Express Employment Professionals, Jamestown, New York; Bush Industries, Inc., Allen Street Facility, Including On-Site Leased Workers From Morris Security Services and Express Employment Professionals, Jamestown, New York; Bush Industries of Pennsylvania, Inc., Including On-Site Leased Workers of Labor Ready, Erie, Pennsylvania; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), as amended, and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 9, 2011, applicable to workers and former workers of Bush Industries, Inc., Mason Drive Facility, Jamestown, New York (TA–W–80,340) and Bush Industries, Inc., Allen Street Facility, Jamestown, New York (TA–W–80,340A). The workers' firm is engaged in activities related to the production of Ready-To-Assemble (RTA) furniture.

At the request of the subject firm, the Department reviewed the certification for workers of the subject firm.

New information provided by the subject firm shows that an affiliated warehouse and distribution facility operated in conjunction with the subject firm's Jamestown, New York facilities and the workers at the Erie, Pennsylvania facility were adversely impacted by increased imports of RTA furniture. The worker group at the Erie, Pennsylvania facility includes on-site leased workers of Labor Ready.

The intent of the Department's certification is to include all workers at the subject firm who are adversely affected by increased imports of RTA furniture during the relevant period.

Based on these findings, the Department is amending this certification to include workers, including on-site leased workers, at the subject firm's Erie, Pennsylvania facility.

The amended notice applicable to TA–W–80,340 is hereby issued as follows:

All workers of Bush Industries, Inc., Mason Drive Facility, including on-site leased workers from Morris Security Services and Express Employment Professionals, Jamestown, New York (TA–W–80,340), Bush Industries, Inc., Allen Street Facility, including on-site leased workers from Morris Security Services and Express Employment Professionals, Jamestown, New York (TA–W–80,340A), and Bush Industries of Pennsylvania, Inc., including on-site leased workers of Labor Ready, Erie, Pennsylvania (TA–W–80,340B), who became totally or partially separated from employment on or after August 7, 2011, through September 9, 2013, eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 25th day of April, 2013.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–11473 Filed 5–14–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of April 15, 2013 through April 19, 2013.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) Imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) Imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) Imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) The increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) There has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) The shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) The acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) An affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) An affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) An affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of

the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) The petition is filed during the 1-year period beginning on the date on which—

(A) A summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) Notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) The workers have become totally or partially separated from the workers' firm within—

(A) The 1-year period described in paragraph (2); or

(B) Notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
82,479	Daimler Trucks North America, LLC, Western Star Truck Manufacturing Plant, Concentra and Volt.	Portland, OR	February 18, 2012.
82,481	HarperCollins Publishers, Distribution Operations, Action Personnel, CGA Staffing Services, etc.	Scranton, PA	February 19, 2012.
82,532	US Castings, LLC, Express Services	Entiat, WA	March 5, 2012.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
82,453	Dell Inc., Dell Financial Services LLC (DFS), Operations Organization	Round Rock, TX	February 12, 2012.
82,547	Disston Company, Including On-Site Leased Workers From Masiello	South Deerfield, MA	April 28, 2013.
82,553	Enservio, Inc., Transcription Team	Needham, MA	February 22, 2012.
82,556	S4Carlisle Publishing Services	Dubuque, IA	March 10, 2013.
82,581	WestPoint Home LLC, Wagram Division, Distribution Center, Waste Water Treatment & Citistaff.	Wagram, NC	March 20, 2012.

The following certifications have been issued. The requirements of Section 222(c) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
82,509	Hemlock Semiconductor Corporation, Dow Corning Corporation, Adecco, Qualified Staffing, SimplexGrennell LP.	Hemlock, MI	February 27, 2012.
82,509A	Hemlock Semiconductor LLC, Dow Corning Corporation, Adecco, Qualified Staffing, SimplexGrennell LP.	Clarksville, TN	February 27, 2012.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criterion under paragraph (a)(1), or (b)(1), or (c)(1) (employment decline or threat of separation) of section 222 has not been met.

TA–W No.	Subject firm	Location	Impact date
82,541	Rosebud Mining Company	Kittaning, PA.	

The investigation revealed that the criteria under paragraphs (a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
82,274	Applied Materials, Inc., Main Plant, ABM, Adecco, LC Staffing, Securitas Security Services USA, Inc.	Kalispell, MT.	
82,274A	Applied Materials, Inc., Birch Grove Facility, ABM, Adecco, LC Staffing, Securitas Security.	Kalispell, MT.	

TA–W No.	Subject firm	Location	Impact date
82,274B	Applied Materials, Inc., ABM, Adecco, LC Staffing, Securitas Security Services USA, Inc.	Libby, MT.	
82,396	Sealy Mattress Company, A Subsidiary of Sealy, Inc., Express Employment Professionals.	Portland, OR.	
82,440	Stone Age Interiors, Inc., Colorado Springs Marble & Granite, Express Employment Professionals.	Colorado Springs, CO.	
82,447	Yugo Mold, Inc	Akron, OH.	
82,540	Judith Leiber LLC	New York, NY.	
82,541A	Rosebud Mining Company	Winber, PA.	

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W No.	Subject firm	Location	Impact date
82,472	TE Connectivity, Deutsch	Tullahoma, TN.	
82,635	V & H Heating & Sheetmetal Company	Woodlawn, VA.	

The following determinations terminating investigations were issued because the petitioning groups of workers are covered by active certifications. Consequently, further investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

TA–W No.	Subject firm	Location	Impact date
82,542	Hemlock Semiconductor Corporation, Dow Corning Corporation	Hemlock, MI.	
82,542A	Hemlock Semiconductor LLC, Dow Corning Corporation	Clarksville, TN.	

I hereby certify that the aforementioned determinations were issued during the period of April 15, 2013 through April 19, 2013. These determinations are available on the Department's Web site *tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Dated: April 23, 2013.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–11466 Filed 5–14–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–81,945]

Pfizer Therapeutic Research, Pfizer Worldwide Research & Development Division, Formerly Known as Warner Lambert Company, Comparative Medicine Department, Including On-Site Leased From Charles River Laboratories and Execupharm, Inc., Groton, Connecticut; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on October 25, 2012, applicable to workers of Pfizer Therapeutic Research, Pfizer Worldwide Research & Development Division, Comparative Medicine Department, including on-site leased workers from Charles River Laboratories, Groton, Connecticut. The workers are engaged in the supply of scientific research support, animal care and husbandry services. The notice was published in the **Federal Register** on November 9, 2012 (77 FR 67404).

As a result of a related pending investigation (TA–W–82,518, Pfizer Pharmaceuticals, Groton, Connecticut), the Department reviewed the certification for workers of the subject firm. New information from the company shows that workers leased from ExecuPharm, Inc. were employed on-site at the Groton, Connecticut location of Pfizer Therapeutic Research, Pfizer Worldwide Research & Development Division, formerly known as Warner Lambert Company, Comparative Medicine Department. The Department has determined that these workers were sufficiently under the control of Pfizer Therapeutic Research, Pfizer Worldwide Research & Development Division, formerly known as Warner Lambert Company, Comparative Medicine Department to be considered leased workers.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by a shift in services of scientific research support, animal care and husbandry services to a foreign country.

Based on these findings, the Department is amending this certification to include workers leased

from ExecuPharm, Inc. working on-site at the Groton, Connecticut location of the subject firm.

The amended notice applicable to TA–W–81,945 is hereby issued as follows:

All workers from Pfizer Therapeutic Research, Pfizer Worldwide Research & Development Division, formerly known as Warner Lambert Company, Comparative Medicine Department, including on-site leased workers from Charles River Laboratories and ExecuPharm, Inc., Groton, Connecticut, who became totally or partially separated from employment on or after September 5, 2011, through October 25, 2014, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC, this 25th day of April 2013.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–11474 Filed 5–14–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–82,504]

Cardinal Health 200, LLC, a Wholly Owned Subsidiary of Cardinal Health, Inc., Medical-Presource Manufacturing, Monte Briner Building, Including On-Site Leased Workers From Adecco USA, Inc., Countryside Association, and Executive Building Maintenance and Including Workers Whose Unemployment Insurance (UI) Wages Are Reported Through Allegiance Healthcare Corporation DBA Allegiance Healthcare, Waukegan, Illinois; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on March 15, 2013, applicable to workers of Cardinal Health 200, LLC, a subsidiary of Cardinal Health, Inc., Medical-Presource Manufacturing, Monte Briner Building, including on-site leased workers from Adecco USA, Inc., Countryside Association, and Executive Building Maintenance, Waukegan, Illinois. The Department's notice of determination was published in the **Federal Register** on April 1, 2013 (78 FR 19532).

At the request of State Workforce Office, the Department reviewed the certification for workers of the subject firm. The workers are engaged in custom sterile surgical kits.

New information shows that some workers separated from employment at Cardinal Health 200, LLC had their wages reported through a separate unemployment insurance (UI) tax account under the name Allegiance Healthcare Corp. dba Allegiance Healthcare.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by a shift of production of custom sterile surgical kits.

Accordingly, the Department is amending this certification to properly reflect this matter.

The amended notice applicable to TA–W–82,504 is hereby issued as follows:

All workers of Cardinal Health 200, LLC, a subsidiary of Cardinal Health, Inc., Medical-Presource Manufacturing, Monte Briner Building, including on-site leased workers from Adecco USA, Inc., Countryside Association, and Executive Building Maintenance, Waukegan, Illinois, including workers whose unemployment insurance (UI) wages are reported through Allegiance Healthcare Corp. dba Allegiance Healthcare, who became totally or partially separated from who became totally or partially separated from employment on or after February 25, 2012, through March 15, 2015, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 2nd day of May, 2013.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–11479 Filed 5–14–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–82,506; TA–W–82,506S]

Experian, Experian Healthcare (Medical Present Value (MPV)—Credit Services and Decision Analytics) Including On-Site Leased Workers From Tapfin, Manpower and Experis Austin, Texas; Experian, Oakland Cheetahmail Office, Including On-Site Leased Workers From Tapfin, Manpower and Experis Oakland, California; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 4, 2013, applicable to workers of Experian, Experian Healthcare, (medical Present Value (MPV)—Credit Services and Decision Analytics), Austin, Texas (TA–W–82,506), Experian, Information Technology & Operations, (Data Center and Technical Services, Telecommunications, Network Services, Compliance and Distributed Applications), Allen, Texas (TA–W–82,506A), Experian, Information Technology & Operations, (Data Center and Technical Services, Telecommunications, Network Services, Compliance and Distributed Applications, Allen, Texas (TA–W–82,506B), Experian, Business Information Services, Corporate Marketing, Credit Services, Data Management, Decision Analytics, Information Technology Services, Marketing Services (Broker Sales and Licensing) and Strategic Alliance, Atlanta, Georgia (TA–W–82,506C), Experian, QAS (Experian Marketing Services), Boston, Massachusetts (TA–W–82,506D), Experian, Decision Analytics, (formerly Baker Hill), Carmel, Indiana (TA–W–82,506E), Experian, Experian U.S. Headquarters: Corporate Departments (finance, HRMD, Contracts, Corporate Marketing, Global Corporate Systems, Legal & Regulatory, Risk Management, Strategic Business Development and Investor Relations), Credit Services, Experian Automotive, Costa Mesa, California (TA–W–82,506F), Experian, Experian Consumer Direct (Experian Interactive, Consumerinfo.Com), Costa Mesa, California (TA–W–82,506G), Experian, Marketing Services, El Segundo, California (TA–W–82,506H), Experian, Marketswitch (Decision Analytics),

Herndon, Virginia (TA–W–82,506I), Experian, Experian Healthcare (Searchamerica—Credit Services and Decision Analytics), Maple Grove, Minnesota (TA–W–82,506J), Experian, Marketing Services, New York, New York (TA–W–82,506K), Experian, Global Product & Technology Services, Experian Marketing Services (Experian Simmons), New York, New York (TA–W–82,506L), Experian, Experian Marketing Services, New York, New York (TA–W–82,506M), Experian, Credit Services, Marketing Services, Parsippany, New Jersey (TA–W–82,506N), Experian, Experian Healthcare (Medical Present Value (MPV)—Credit Services and Decision Analytics), Plymouth, Massachusetts (TA–W–82,506O), Experian, Experian Healthcare (Medical Present Value (MPV)—Credit Services and Decision Analytics), San Antonio, Texas (TA–W–82,506P), Experian, Fraud Solutions, Decision Analytics (Decision Solutions & Decision Sciences), San Diego, California (TA–W–82,506Q), and Experian, Credit Services, Experian Automotive and Marketing Services, Schaumburg, Illinois (TA–W–82,506R). The worker groups are engaged in the supply of credit reporting services. The worker groups include on-site leased workers from Tapfin, Manpower and Experis who worked at all locations. The notice was published in the **Federal Register** on April 30, 2013 (78 FR 25306).

At the request of a company official, the Department reviewed the certification for workers of the subject firm. Information shows that worker separations occurred during the relevant time period at the Oakland CheetahMail Office, Oakland, California location of Experian. The Oakland CheetahMail Office, Oakland, California location provides CheetahMail marketing services for Experian.

Accordingly, the Department is amending the certification to include workers of the Oakland CheetahMail Office, Oakland, California location of Experian.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by a shift in services of credit reporting services to Costa Rica, Chile and England.

The amended notice applicable to TA–W–82,506 is hereby issued as follows:

"All workers from Experian, Experian Healthcare, (medical Present Value (MPV)—Credit Services and Decision Analytics), including on-site leased workers Tapfin, Manpower and Experis, Austin, Texas (TA–W–82,506), Experian, Information Technology & Operations, (Data Center and Technical Services, Telecommunications, Network Services, Compliance and Distributed Applications), including on-site leased workers from Tapfin, Manpower and Experis, Allen, Texas (TA–W–82,506A), Experian, Information Technology & Operations, (Data Center and Technical Services, Telecommunications, Network Services, Compliance and Distributed Applications, including on-site leased workers from Tapfin, Manpower and Experis, Allen, Texas (TA–W–82,506B), Experian, Business Information Services, Corporate Marketing, Credit Services, Data Management, Decision Analytics, Information Technology Services, Marketing Services (Broker Sales and Licensing) and Strategic Alliance, including on-site leased workers from Tapfin, Manpower and Experis, Atlanta, Georgia (TA–W–82,506C), Experian, QAS (Experian Marketing Services), including on-site leased workers from Tapfin, Manpower and Experis, Boston, Massachusetts (TA–W–82,506D), Experian, Decision Analytics, (formerly Baker Hill), including on-site leased workers from Tapfin, Manpower and Experis, Carmel, Indiana (TA–W–82,506E), Experian, Experian US Headquarters: Corporate Departments (finance, HRMD, Contracts, Corporate Marketing, Global Corporate Systems, Legal & Regulatory, Risk Management, Strategic Business Development and Investor Relations), Credit Services, Experian Automotive, including on-site leased workers from Tapfin, Manpower and Experis, Costa Mesa, California (TA–W–82,506F), Experian, Experian Consumer Direct (Experian Interactive, Consumerinfo.Com), including on-site leased workers from Tapfin, Manpower and Experis, Costa Mesa, California (TA–W–82,506G), Experian, Marketing Services, including on-site leased workers from Tapfin, Manpower and Experis, El Segundo, California (TA–W–82,506H), Experian, Marketswitch (Decision Analytics), including on-site leased workers from Tapfin, Manpower and Experis, Herndon, Virginia (TA–W–82,506I), Experian, Experian Healthcare (Searchamerica—Credit Services and Decision Analytics), including on-site leased workers from Tapfin, Manpower and Experis, Maple Grove, Minnesota (TA–W–82,506J), Experian, Marketing Services, including on-site leased workers from Tapfin, Manpower and Experis, New York, New York (TA–W–82,506K), Experian, Global Product & Technology Services, Experian Marketing Services (Experian Simmons), including on-site leased workers from Tapfin, Manpower and Experis, New York, New York (TA–W–82,506L), Experian, Experian Marketing Services, including on-site leased workers from Tapfin, Manpower and Experis, New York, New York (TA–W–82,506M), Experian, Credit Services, Marketing Services, including on-site leased workers from Tapfin, Manpower and Experis, Parsippany, New Jersey (TA–W–82,506N), Experian, Experian Healthcare (Medical Present Value (MPV)—Credit Services and Decision Analytics), including on-site leased workers from Tapfin, Manpower and Experis, Plymouth, Massachusetts (TA–W–82,506O), Experian, Experian Healthcare (Medical Present Value (MPV)—Credit Services and Decision Analytics), including on-site leased workers from Tapfin, Manpower and Experis, San Antonio, Texas (TA–W–82,506P), Experian, Fraud Solutions, Decision Analytics (Decision Solutions & Decision Sciences), including on-site leased workers from Tapfin, Manpower and Experis, San Diego, California (TA–W–82,506Q), and Experian, Credit Services, Experian Automotive and Marketing Services, including on-site leased workers from Tapfin, Manpower and Experis, Schaumburg, Illinois (TA–W–82,506R), Experian, Oakland CheetahMail Office, including on-site leased workers from Tapfin, Manpower and Experis, Oakland, California (TA–W–82,506S), who became totally or partially separated from employment on or after February 26, 2012 through April 4, 2015, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended."

Signed at Washington, DC this 2nd day of May 2013.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–11482 Filed 5–14–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–80,363]

Hutchinson Technology Inc. Including On-Site Leased Workers From Doherty Staffing Hutchinson, Minnesota; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 7, 2011, applicable to workers of Hutchinson Technology Inc., Hutchinson, Minnesota. The Department's notice of determination was published in the **Federal Register** on September 23, 2011 (76 FR 59169).

At the request of the Minnesota Department of Employment and Economic Development, the Department reviewed the certification for workers of the subject firm. The workers were engaged in production of suspension assemblies for disk drives.

The company reports that workers leased from Doherty Staffing were employed on-site at the Hutchinson, Minnesota location of Hutchinson

Technology Inc. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Doherty Staffing working on-site at the Hutchinson, Minnesota location of Hutchinson Technology Inc.

The amended notice applicable to TA–W–80,363 is hereby issued as follows:

"All workers of Hutchinson Technology Inc., including on-site leased workers from Doherty Staffing, Hutchinson, Minnesota, who became totally or partially separated from employment on or after September 19, 2011, through September 7, 2013, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended."

Signed in Washington, DC this April 16, 2013.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–11458 Filed 5–14–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–81,919]

Prometric, Inc., a Subsidiary of Educational Testing Service, Including On-Site Leased Workers From Office Team St. Paul, Minnesota; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on October 1, 2012, applicable to workers and former workers of Prometric, Inc., a subsidiary of Educational Test Service, St. Paul, Minnesota (subject firm). The Department's notice of determination was published in the **Federal Register** on October 19, 2012 (77 FR 64357). The workers were engaged in educational support services. The certification did not include any leased workers.

At the request of a state workforce official, the Department reviewed the certification for workers of the subject firm.

The company reports that workers leased from Office Team were employed on-site at the St. Paul, Minnesota location of the subject firm. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Office Team working on-site at the St. Paul, Minnesota location of Prometric, Inc., a subsidiary of Educational Test Service.

The amended notice applicable to TA–W–81,919 is hereby issued as follows:

All workers of Prometric, Inc., a subsidiary of Educational Test Service, include on-site leased workers of Office Team, St. Paul, Minnesota, who became totally or partially separated from employment on or after August 23, 2011, through October 1, 2014, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this April 22, 2013.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–11463 Filed 5–14–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–82,035]

Georgia Pacific LLC, Also Doing Business as Duluth Hardboard Plant, Specialty Manufacturing Division, a Subsidiary of Koch Industries, Including On-Site Leased Workers of DS&E Company, Duluth, Minnesota; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

Corrected: May 1, 2013.

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 14, 2013, applicable to workers of Georgia Pacific, LLC, also doing business as Duluth Hardboard Plant, Specialty Manufacturing Division, a subsidiary of Koch Industries, Duluth, Minnesota (subject firm). The workers produce hardboard.

At the request of the State of Minnesota, the Department reviewed the certification for workers of the subject firm.

The intent of the Department's certification is to include all workers at the subject firm who were adversely affected by increased imports of hardboard.

The Department has determined that these workers of DS&E Company were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from DS&E Company working on-site at the subject firm.

The amended notice applicable to TA–W–82,035 is hereby issued as follows:

All workers of Georgia Pacific, LLC, also doing business as Duluth Hardboard Plant, Specialty Manufacturing Division, a subsidiary of Koch Industries, including on-site leased workers of DS&E Company, Duluth, Minnesota, who became totally or partially separated from employment on or after October 2, 2011 through February 14, 2015, and all workers in the group threatened with total or partial separation from employment on February 14, 2013 through February 14, 2015 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed in Washington, DC, this 26th day of April 2013.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–11483 Filed 5–14–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–82,308]

TE Connectivity, a Subsidiary of Tyco Electronics Corporation, Relay Products Business Unit Including On-Site Leased Workers From Kelly Services, Diversco and Hagemeyer North America Winston-Salem, North Carolina; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended ("Act"), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to

Apply for Worker Adjustment Assistance on March 12, 2013, applicable to workers of TE Connectivity, a subsidiary of Tyco Electronics Corporation, Relay Products Business Unit, including on-site leased workers from Kelly Services, Winston-Salem, North Carolina. The workers are engaged in activities related to the production of electromechanical relays, contactors and transformers. The notice was published in the **Federal Register** on April 1, 2013 (78 FR 19532).

At the request of a company official, the Department reviewed the certification for workers of the subject firm. New information from the company shows that workers leased from Diversco and Hagemeyer North America were employed on-site at the Winston-Salem, North Carolina location of TE Connectivity, a subsidiary of Tyco Electronics Corporation, Relay Products Business Unit. The Department has determined that these workers were sufficiently under the control of TE Connectivity, a subsidiary of Tyco Electronics Corporation. Relay Products Business Unit to be considered leased workers.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by a shift in the production of electromechanical relays, contactors and transformers to a foreign country.

Based on these findings, the Department is amending this certification to include workers leased from Diversco and Hagemeyer North America working on-site at the Winston-Salem, North Carolina location of the subject firm.

The amended notice applicable to TA–W–82,308 is hereby issued as follows:

All workers from TE Connectivity, a subsidiary of Tyco Electronics Corporation, Relay Products Business Unit, including on-site leased workers from Kelly Services, Diversco and Hagemeyer North America, Winston-Salem, North Carolina, who became totally or partially separated from employment on or after December 21, 2011, through March 12, 2015, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC, this April 16, 2013.

Michael W. Jaffe.

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–11457 Filed 5–14–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of April 22, 2013 through April 26, 2013.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) Imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) Imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) Imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) The increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) There has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) The shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) The acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) An affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) An affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) An affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) The petition is filed during the 1-year period beginning on the date on which—

(A) A summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) Notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) The workers have become totally or partially separated from the workers' firm within—

(A) The 1-year period described in paragraph (2); or

(B) Notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
82,420	Owens-Brockway Glass Container Inc., Plants 18, 19 and 76, Owens-Brockway Packaging, Inc.	Brockport, PA	January 30, 2012.
82,619	Connextions Olympus Program, A Division of Connextions. Inc	Concord, NC	April 1, 2012.
82,632	Mass Design, Incorporated, Fabrication Department	Nashua, NH	April 1, 2012.
82,648	Salem Vent International, Inc., Action Personnel and Lingo Staffing	Salem, VA	April 10, 2012.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
82,416	Xerox Corporation, Content Development and Language Services North America, Filter and Adecco.	Wilsonville, OR	February 4, 2012.
82,416A	Xerox Corporation, Content Development and Language Services North America, Genuent, etc.	Webster, NY	February 4, 2012.
82,457	Russell Brands, LLC, Russell Athletic Division, Fruit of the Loom	Alexander City, AL	February 12, 2012.
82,467	Deltacraft	Buffalo, NY	February 8, 2012.
82,502	Pfizer—Rouses Point, Pfizer Global Supply	Rouses Point, NY	March 22, 2013.
82,502A	Leased Workers From Westaff, Working On-Site at Pfizer—Rouses Point.	Rouses Point, NY	February 12, 2012.
82,568	Homeward Residential, Inc., Ocwen Loan Servicing, LLC, Staffmark Staffing.	Coppell, TX	March 15, 2012.
82,568A	Homeward Residential, Inc., Ocwen Loan Servicing, LLC, Staffmark Staffing.	Addison, TX	March 15, 2012.
82,568B	Homeward Residential, Inc., Ocwen Loan Servicing, LLC, Staffmark Staffing.	Jacksonville, FL	March 15, 2012.
82,570	LexisNexis/Matthew Bender, Reed Elsevier, Finance Department, General Accounting and Royalties.	Charlottesville, VA	March 18, 2012.
82,579	Resolute Forest Products U.S., Inc., Formerly Abitibibowater, Inc., Advantage Staffing.	Calhoun, TN	March 19, 2012.
82,616	Methode Electronics, Inc., MST/AEC Division, Higher Plain Staffing and Unique Staffing.	Carthage, IL	March 26, 2012.
82,636	Hologic, Inc., Breast Biopsy Solutions	Indianapolis, IN	April 5, 2012.
82,646	Sensata Technologies, Inc., Controls, Dimensions Business, Right Staff	St. Paul, MN	April 5, 2012.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criterion under paragraph (a)(1), or (b)(1), or (c)(1) (employment decline or threat of separation) of section 222 has not been met.

TA–W No.	Subject firm	Location	Impact date
82,566	Solutia, Inc., Eastman Chemical Co., Inc., D.R. Plourde, Spherion, Ranstad, Sourceright.	Springfield, MA.	
82,638	New Mexico Farmers Markets	Rio Rancho, NM.	

The investigation revealed that the criteria under paragraphs (a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
81,680	Xerox Commercial Solutions, LLC, Specialty Business Unit, Xerox Business Services, LLC.	Frostburg, MD.	
82,380	Red Rock Medical Billing LLC, Radiology Specialist, LTD	Las Vegas, NV.	
82,561	Nian Hing, Inc	Brooklyn, NY.	
82,563	Banta Corporation, d/b/a RR Donnelley	Greenfield, OH.	

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioning groups of workers are covered by active certifications. Consequently, further investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

TA–W No.	Subject firm	Location	Impact date
82,518	Pfizer Therapeutic Research, Pfizer Worldwide Research & Development, Warner Lambert, ExecuPharm.	Groton, CT.	

I hereby certify that the aforementioned determinations were issued during the period of April 22, 2013 through April 26, 2013. These determinations are available on the Department's Web site *tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Dated: April 30, 2013.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–11469 Filed 5–14–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of April 8, 2013 through April 12, 2013.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) Imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) Imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) Imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) The increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) There has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) The shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and

a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) The acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) either—

(A) The workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) An affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) An affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) An affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A)):

(2) The petition is filed during the 1-year period beginning on the date on which—

(A) A summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) Notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) The workers have become totally or partially separated from the workers' firm within—

(A) The 1-year period described in paragraph (2); or

(B) Notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
81,860	Resolute Forest Products, Catawba Mill—aper Machine No. 1, Commercial Printing Papers, etc.	Catawba, SC	August 3, 2011.
82,515	DuPont Teijin Films US LP, E.I. DuPont De Nemours & Teijin, Holdings USA, Allied Barton Security, etc.	Hopewell, VA	February 28, 2012.
82,535	Asteelflash US East Corp., US East, Asteelflash Group	Owego, NY	March 6, 2012.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
82,249N	UnitedHealth Group, United Payment Integrity Operations, On-Site Leased Workers.	Eden Prairie, MN	December 11, 2011.
82,249Y	UnitedHealth Group, Optum, Inc., OptumHealth Behavioral Solutions, Provider Data Maintenance.	Bloomington, MN	December 11, 2011.
82,353	Comcast Cable, West Division, Repair Call Service Group	Beaverton, OR	December 27, 2011.
82,353A	Comcast Cable, West Division, Billing Call Service Group	Beaverton, OR	December 27, 2011.
82,363	XOR Media, Formerly Seachange International	Acton, MA	January 23, 2012.
82,402	YP Midwest Publishing LLC, Publishing Operations Group, YP Subsidiary Holdings LLC, Zero Chaos.	Brookfield, WI	January 31, 2012.
82,435	Pfizer—Pearl River, Pfizer Global Supply	Pearl River, NY	April 1, 2013.
82,435A	Leased Workers from Atrium Staffing and VisionIT, Working On-Site at Pfizer.	Pearl River, NY	February 7, 2012.
82,485	Nestle Healthcare Nutrition, Inc., Adecco USA	St. Louis Park, MN	May 5, 2013.
82,516	Micro Contacts, Inc	Hicksville, NY	February 28, 2012.
82,524	Level 3 Communications, LLC, Iqnavigator, Synergy Services, Horizontal Integration, etc.	Coudersport, PA	March 4, 2012.

TA–W No.	Subject firm	Location	Impact date
82,531	Apex Tool Group, LLC, Bain Capital, North American Hand Tools Ops, TEC Staffing, Kelly Staffing.	Springdale, AR	March 6, 2012.
82,544	Citigroup Technology, Inc. (CTI), Citigroup Inc., Project Management, Global Tech, Citi Shared, Leased Workers.	Irving, TX	March 7, 2012.
82,556	Abbott Diabetes Care, Abbott, Abbott Technical Support Division, Sykes Enterprises.	Langhorne, PA	March 13, 2012.
82,582	Standard Motor Products, Express Employment Professionals	Independence, KS	March 20, 2012.
82,583	Chromalloy Gas Turbine, LLC, Los Angeles Division, Sequa Corp	Gardena, CA	March 20, 2012.
82,591	CIBA Vision Corporation, Novartis Pharmaceutical, Kelly Services, Sargan, Validant and Pharmtech.	Des Plaines, IL	March 22, 2012.
82,595	AIG Global Services, Inc., Service Management Production Operations	Livingston, NJ	March 25, 2012.
82,602	Wells Fargo & Company, Consumer Lending Group, Non-Phone Credit Bureau, Randstad etc.	Beaverton, OR	March 25, 2012.
82,622	ETI Precision Corp, Elmet Holdings, LLC	Gordonsville, TN	April 1, 2012.
82,624	Heraeus Materials Technology North America, Heraeus Holding GMBH, Aerotek, Modis.	Chandler, AZ	March 26, 2013.

The following certifications have been issued. The requirements of Section 222(c) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
82,487	Miller Welding & Machine Co., Spherion Staffing Service	Brookville, PA	February 20, 2012.
82,487A	Miller Welding & Machine Co., Spherion Staffing Service	Brookville, PA	February 20, 2012.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criterion under paragraph (a)(1), or (b)(1), or (c)(1)(employment decline or threat of separation) of section 222 has not been met.

TA–W No.	Subject firm	Location	Impact date
82,249A	UnitedHealth Group, UnitedHealthcare Community and State Legal Department.	Minnetonka, MN.	
82,249E	UnitedHealth Group, Optum Insight Financial Performance Solutions, Revenue Cycle Managed Service.	Eden Prairie, MN.	
82,249G	UnitedHealth Group, OptumInsight, Payer Consulting, On-Site Leased Workers.	Eden Prairie, MN.	
82,249H	UnitedHealth Group, OptumInsight, Payer Consulting, On-Site Leased Workers.	Minnetonka, MN.	
82,249I	UnitedHealth Group, OptumInsight, Payer Product Management	Eden Prairie, MN.	
82,249R	UnitedHealth Group, Optum, Inc., Optum Shared Services, Business Operations, Genesis 10.	Bloomington, MN.	
82,249S	UnitedHealth Group, Optum, Inc., Optum Shared Services, Business Operations, Genesis 10.	Golden Valley, MN.	
82,249V	UnitedHealth Group, UnitedHealthcare Financial Data Management Department, Leased Workers.	Minnetonka, MN.	
82,249W	UnitedHealth Group, OptumHealth Application Development	Plymouth, MN.	
82,249X	UnitedHealth Group, Optum, Inc., OptumHealth Behavioral Solutions, New Markets.	Bloomington, MN.	

The investigation revealed that the criteria under paragraphs(a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
82,249	UnitedHealth Group, OptumHealth Financial Services, Aerotek, On-Site Leased Workers.	Coon Rapids, MN.	
82,249B	UnitedHealth Group, Optum, Inc., Credit Balance Field Operations	Eden Prairie, MN.	
82,249F	UnitedHealth Group, OptumInsight, Provider Consulting, On-Site Leased Workers.	Eden Prairie, MN.	
82,249J	UnitedHealth Group, OptumInsight, X Hub, On-Site Leased Workers	Eden Prairie, MN.	
82,249K	UnitedHealth Group, OptumInsight, X Hub, On-Site Leased Workers	Eden Prairie, MN.	
82,249L	UnitedHealth Group, OptumInsight, Life Sciences	Eden Prairie, MN.	

TA–W No.	Subject firm	Location	Impact date
82,249M	UnitedHealth Group, Optum, Payer Transformation Team, On-Site Leased Workers.	Eden Prairie, MN.	
82,249O	UnitedHealth Group, United Payment Integrity, Advanced Analytics Process.	Eden Prairie, MN.	
82,249P	UnitedHealth Group, Optum, Inc., Credit Balance Field Operations	Eden Prairie, MN.	
82,249Q	UnitedHealth Group, Optum, Inc., United Payment Integrity, Program Management.	Eden Prairie, MN.	
82,249T	UnitedHealth Group, Optum, Inc., OptumHealth Financial Services, Stop Loss, Health Wealth, Lea.	Golden Valley, MN.	
82,249U	UnitedHealth Group, Optum, Inc., OptumHealth Financial Services, Stop Loss, Health Wealth, Lea.	Minnetonka, MN.	
82,353B	Comcast Cable, West Division, Residential Inbound Sales Group, Manpowergroup Solutions.	Beaverton, OR.	
82,353C	Comcast Cable, West Division, Customer Retention Group	Beaverton, OR.	
82,476	SuperValu, Inc., Pleasant Prairie Distribution Center, Progressive Logistics Services.	Pleasant Prairie, WI.	
82,497	TransUnion, LLC, End User Support—IT Department	Chicago, IL.	

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W No.	Subject firm	Location	Impact date
82,463	BP Solar International, Inc., BP Corporation North America, Inc., BP America International, Inc.	Frederick, MD.	

The following determinations terminating investigations were issued because the petitioning groups of workers are covered by active certifications. Consequently, further investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

TA–W No.	Subject firm	Location	Impact date
82,550	Verizon Business Networks Services, Inc., Senior-Analysts-Order Management Voice Over Internet Protocol, etc.	Tampa, FL.	

The following determinations terminating investigations were issued because the petitions are the subject of ongoing investigations under petitions filed earlier covering the same petitioners.

TA–W No.	Subject firm	Location	Impact date
82,620	Hewlett Packard Company, Hewlett Packard Enterprise Business Unit, EG HP Storage, etc.	Andover, MA.	

I hereby certify that the aforementioned determinations were issued during the period of April 8, 2013 through April 12, 2013. These determinations are available on the Department's Web site *tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Dated: April 16, 2013.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–11460 Filed 5–14–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment

Assistance, at the address shown below, not later than May 28, 2013.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 28, 2013.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 24th of April 2013.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[22 TAA petitions instituted between 4/15/13 and 4/19/13]

TA–W No.	Subject firm (petitioners)	Location	Date of institution	Date of petition
82650	Parker Hannifin Corporation (Union)	Youngstown, OH	04/17/13	04/11/13
82651	Anthem Workers Compensation (Workers)	Costa Mesa, CA	04/17/13	04/10/13
82652	American Air Filter (Workers)	Lebanon, IN	04/17/13	04/12/13
82653	Libbey Glass (State/One-Stop)	Shreveport, LA	04/17/13	04/12/13
82654	Collom and Carney Clinic (Workers)	Texarkana, TX	04/17/13	04/13/13
82655	CPI Corporation (State/One-Stop)	St. Louis, MO	04/17/13	04/10/13
82656	Eagle Industries, LLC (Workers)	Bowling Green, KY	04/17/13	04/12/13
82657	Midwest Electric Products, Inc. (State/One-Stop)	Mankato, MN	04/18/13	04/16/13
82658	SunTrust Bank (State/One-Stop)	Richmond, VA	04/18/13	04/12/13
82659	Harsco Metals Operations (State/One-Stop)	Blytheville, AR	04/18/13	04/15/13
82660	Conmed Linvatec (State/One-Stop)	Goleta, CA	04/18/13	04/15/13
82661	McKechnie Vehicle Components (Workers)	Newberry, SC	04/18/13	04/16/13
82662	Thomas Nelson Inc. (Company)	Nashville, TN	04/18/13	04/15/13
82663	Beldon Inc. (Workers)	Horseheads, NY	04/18/13	04/16/13
82664	Jabil Circuit Inc. (Workers)	Auburn Hills, MI	04/18/13	04/16/13
82665	William Arthur, Inc. (State/One-Stop)	West Kennebunk, ME	04/18/13	04/17/13
82666	Johnson Electric (Company)	Springfield, TN	04/18/13	04/17/13
82667	Chromalloy Gas Turbine, LLC (Oklahoma Facility) (Company).	Gallatin, TN	04/18/13	04/17/13
82668	Optical Supply Inc. (Workers)	Grand Rapids, MI	04/18/13	04/16/13
82669	U.S. Textile Corporation (Company)	Newland, NC	04/18/13	04/17/13
82670	Cynsational Hair Care Services (Company)	Lake City, SC	04/18/13	04/17/13
82671	Johnstown Specialty Castings Inc. (Company)	Johnstown, PA	04/18/13	04/17/13

[FR Doc. 2013–11465 Filed 5–14–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 28, 2013.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 28, 2013.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 30th of April 2013.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[25 TAA petitions instituted between 4/22/13 and 4/26/13]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
82672	Maxima Technologies & Systems LLC (Company).	Lancaster, PA	04/22/13	04/18/13
82673	Komatsu America (State/One-Stop)	Peoria, IL	04/22/13	04/18/13
82674	CREATETHE GROUP (State/One-Stop)	New York, NY	04/22/13	04/22/13
82675	DMI Industries (State/One-Stop)	Fargo, ND	04/22/13	04/18/13

APPENDIX—Continued

[25 TAA petitions instituted between 4/22/13 and 4/26/13]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
82676	Honeywell International Inc. (Workers)	Golden Valley, MN	04/22/13	04/11/13
82677	Caterpillar, Inc. (State/One-Stop)	Decatur, IL	04/22/13	04/19/13
82678	Cannon Equipment (State/One-Stop)	Rosemount and Cannon Falls, MN	04/22/13	04/19/13
82679	SST Truck Company LLC (State/One-Stop)	Garland, TX	04/22/13	04/18/13
82680	SuperMedia LLC (Workers)	St. Petersburg, FL	04/22/13	04/17/13
82681	Star City Machine (State/One-Stop)	Roanoke, VA	04/23/13	04/22/13
82682	Aclara (Workers)	Solon, OH	04/23/13	04/22/13
82683	Office Depot Corporate (Workers)	Boca Raton, FL	04/23/13	04/22/13
82684	Exide Technologies (Workers)	Hermon, ME	04/23/13	04/22/13
82685	VMC (Workers)	Charlotte, NC	04/23/13	04/18/13
82686	Skyes (State/One-Stop)	Spokane Valley, WA	04/23/13	04/22/13
82687	Freightliner LLC (Workers)	Cleveland, NC	04/23/13	04/05/13
82688	Rough & Ready Lumber LLC (Company)	Cave Junction, OR	04/24/13	04/23/13
82689	Emcore Corporation (State/One-Stop)	Albuquerque, NM	04/24/13	04/23/13
82690	Cypress Semiconductor Corporation (State/One-Stop).	Colorado Springs, CO	04/25/13	04/24/13
82691	Glasstech Inc. (State/One-Stop)	Northwood, OH	04/25/13	04/24/13
82692	ADP Workscape (Workers)	Meridian, ID	04/25/13	04/24/13
82693	GE/Dresser Flow & Process Technologies (Union).	Avon, MA	04/25/13	04/23/13
82694	Kerry Inc (State/One-Stop)	Cincinnati, OH	04/26/13	04/25/13
82695	Finisar Corporation (Company)	Horsham, PA	04/26/13	04/25/13
82696	R.R. Donnelley (State/One-Stop)	Torrance, CA	04/26/13	04/25/13

[FR Doc. 2013–11468 Filed 5–14–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 28, 2013.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 28, 2013.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this April 18, 2013.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[15 TAA petitions instituted between 4/8/13 and 4/12/13]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
82635	V & H Heating & Sheetmetal Company (Company).	Woodlawn, VA	04/08/13	04/05/13
82636	Hologic, Inc. (Workers)	Indianapolis, IN	04/08/13	04/05/13
82637	Metal Processing International (State/One-Stop).	Mission, TX	04/09/13	04/08/13
82638	New Mexico Farmers Markets (State/One-Stop).	Rio Rancho, NM	04/09/13	03/18/13
82639	Agilent Technologies (Workers)	Lexington, MA	04/09/13	04/05/13
82640	Renewable Environmental Solutions (State/One-Stop).	Carthage, MO	04/09/13	02/13/13
82641	EMC Corporation (State/One-Stop)	Hopkinton, MA	04/10/13	04/08/13
82642	Optoplex Corporation (Workers)	Fremont, CA	04/10/13	04/08/13
82643	Checkerboard Limited (Company)	West Boylston, MA	04/10/13	04/09/13
82644	Westport Shipyard (State/One-Stop)	Westport, Hoquiam, Port Angeles, WA	04/10/13	04/08/13

APPENDIX—15—Continued

[TAA petitions instituted between 4/8/13 and 4/12/13]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
82645	Amcor Tobacco Packaging (Workers)	Danville, VA	04/11/13	04/10/13
82646	Sensata Technologies Inc., (Company)	St. Paul, MN	04/11/13	04/05/13
82647	Republic Special Metals, Inc. (Union)	Canton, OH	04/11/13	04/10/13
82648	Salem Vent International Inc. (Company)	Salem, VA	04/11/13	04/10/13
82649	Cigna Health I Life Insurance Company (Workers).	Tampa, FL	04/12/13	04/11/13

[FR Doc. 2013–11459 Filed 5–14–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–74,813; TA–W–74,813A]

Eastman Kodak Company, Electrographic Print Solutions, Including On-Site Leased Workers From Adecco and Datrose, Spencerport, New York; Eastman Kodak Company, IPS, Including On-Site Leased Workers From Adecco, Dayton, Ohio; Notice of Initiation of Investigation To Terminate Certification of Eligibility

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated in response to a petition for Trade Adjustment Assistance (TAA) filed on behalf of Eastman Kodak Company, Electrographic Print Solutions, Spencerport, New York (EKC–NY). On February 18, 2011, the Department issued a certification of eligibility to apply for TAA applicable to workers and former workers of EKC–NY. On March 19, 2013, the Department issued an amended certification of eligibility to apply for TAA applicable to workers and former workers of Eastman Kodak Company, IPS, Dayton, Ohio (EKC–OH). A corrected amended certification of eligibility to apply for TAA applicable to workers and former workers of EKC–NY and EKC–OH was issued on April 4, 2013.

A review of the determination and the administrative record, however, revealed that the amended certification was erroneously issued. Specifically, the Department misunderstood the various and distinct articles produced at EKC–NY and EKC–OH.

The Department will conduct an investigation to determine whether or not workers of Eastman Kodak Company, IPS, including on-site leased workers, Dayton, Ohio (TA–W–74,813A), have met the criteria set forth in Section 222(a) or (b) of the Trade Act of 1974, as amended, and will issue determinations accordingly.

Signed in Washington, DC, this 25th day of April 2013.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–11470 Filed 5–14–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–82,113]

SGL Carbon, LLC, Including Leased On-Site Worker of Reflex Staffing Services and Manpower, St. Marys, Pennsylvania; Notice of Negative Determination on Reconsideration

The initial investigation began on October 31, 2012 when a representative of the International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers/Communications Workers of America (IUE/CWA) Local 502, filed a petition for Trade Adjustment Assistance (TAA) on behalf of workers and former workers of SGL Carbon, LLC, St. Marys, Pennsylvania (subject firm). The workers are engaged in activities related to the production of graphite component parts. The worker group includes on-site leased workers from Reflex Staffing Services and Manpower.

The negative determination was based on the findings that there had not been a decline in sales or production of graphite component parts at the subject firm during the relevant time period. The Department's notice of negative determination was issued on December 14, 2012 and published in the **Federal Register** on January 4, 2013 (78 FR 771).

By application dated January 9, 2013, the IUE/CWA requested administrative reconsideration of the Department's negative determination.

The application stated that the subject firm produces graphite components for solar panels and that many U.S. companies have difficulty competing in the solar business due to foreign competition. The application further states that workers of one of the subject firm's competitors (Mersen USA, Greenville, Michigan) are eligible to apply for TAA under petition TA–W–81,550.

On February 25, 2013, the Department issued a Notice of Affirmative Determination Regarding Application for Reconsideration, which was published in the **Federal Register** on March 8, 2013 (78 FR 15048).

Increased imports means imports of like or directly competitive articles have increased during the period under investigation (the twelve month period prior to the date of the petition) as compared to the representative base period, which is the one year consisting of the four quarters immediately preceding the date which is twelve months prior to the petition date.

In the case at hand, the petition date is October 19, 2012. As such, the period under investigation is October 2011 through September 2012 and the representative base period is October 2010 through September 2011.

In the course of the reconsideration investigation, the Department confirmed previously collected information and collected additional information from the subject firm to address the petitioner's allegations.

With respect to Section 222(a)(2)(A)(i) of the Act, the reconsideration investigation confirmed that the subject firm did not experience a decline in the sales or production of graphite parts during the period under investigation. As such, it is irrelevant whether imports of articles like or directly competitive with the graphic parts produced by the subject firm, or imports of finished articles incorporating component parts not produced in the United States, increased.

With respect to Section 222(a)(2)(B) of the Act, the reconsideration investigation confirmed that the subject

firm did not shift the production of graphite parts, or like or directly competitive articles, to a foreign country and did not acquire the production of graphite parts, or like or directly competitive articles, from a foreign country.

Workers of Mersen USA, Greenville, Michigan (TA–W–81,550) were certified eligible to apply of adjustment assistance on a secondary basis (for being a supplier to a firm that employed workers who received a certification of eligibility under Section 222(a) of the Act).

In the case at hand, none of the major customers of the subject firm employ worker groups who are currently eligible to apply for TAA under Section 222(a) of the Act. As such, the worker group at the subject firm is not similarly-situated as the workers covered by TA–W–81,550.

Conclusion

After careful review of the Trade Act of 1974, as amended, applicable regulation, and information obtained during the initial and reconsideration investigations, I determine that workers and former workers of SGL Carbon, LLC, including on-site leased workers from Reflex Staffing Services and Manpower, St. Marys, Pennsylvania, are ineligible to apply for adjustment assistance.

Signed in Washington, DC, on this 29th day of April, 2013

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–11480 Filed 5–14–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–81,335]

Technicolor Creative Services, Post Production Feature Mastering Division, Hollywood, California; Notice of Termination of Reconsideration Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, a reconsideration investigation was initiated in on August 1, 2012 by the Department of Labor on behalf of workers and former workers of the subject firm.

The worker group on whose behalf the request for reconsideration was filed is eligible to apply for Trade Adjustment Assistance under TA–W–82,166 (issued on February 14, 2013). The request for reconsideration has been withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this April 15, 2013.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–11462 Filed 5–14–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Program Year (PY) 2013 Workforce Investment Act (WIA) Allotments; PY 2013 Wagner-Peyser Act Final Allotments and PY 2013 Workforce Information Grants

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces allotments for PY 2013 for WIA Title I Youth, Adults and Dislocated Worker Activities programs; final allotments for Employment Service (ES) activities under the Wagner-Peyser Act for PY 2013 and Workforce Information Grants allotments for PY 2013. Allotments for the Work Opportunity Tax Credits will be announced separately.

WIA allotments for States and the State final allotments for the Wagner-Peyser Act are based on formulas defined in their respective statutes. The WIA allotments for the outlying areas are based on a formula determined by the Secretary of Labor (Secretary). As required by WIA section 182(d), on February 17, 2000, a notice of the discretionary formula for allocating PY 2000 funds for the outlying areas (American Samoa, Guam, Marshall Islands, Micronesia, Northern Marianas, Palau, and the Virgin Islands) was published in the **Federal Register** at 65 FR 8236 (February 17, 2000) which included both the rationale for the formula and methodology. The formula for PY 2013 is the same as used for PY 2000 and is described in the section on Youth Activities program allotments. Comments are invited on the formula used to allot funds to the outlying areas.

DATES: Comments on the formula used to allot funds to the outlying areas must be received by June 14, 2013.

ADDRESSES: Submit written comments to the Employment and Training Administration (ETA), Office of Financial Administration, 200 Constitution Avenue NW., Room N–4702, Washington, DC 20210, Attention: Ms. Anita Harvey, email: *harvey.anita@dol.gov.*

Commenters are advised that mail delivery in the Washington area may be delayed due to security concerns. Hand-delivered comments will be received at the above address. All overnight mail will be considered to be hand-delivered and must be received at the designated place by the date specified above.

Please submit your comments by only one method. The Department will not review comments received by means other than those listed above or that are received after the comment period has closed.

Comments: The Department will retain all comments on this notice and will release them upon request via email to any member of the public. The Department also will make all the comments it received available for public inspection by appointment during normal business hours at the above address. If you need assistance to review the comments, the Department will provide you with appropriate aids such as readers or print magnifiers. The Department will make copies of this notice available, upon request, in large print, Braille and electronic file on computer disk. The Department also will consider providing the notice in other formats upon request. To schedule an appointment to review the comments and/or obtain the notice in an alternative format, contact Ms. Harvey using the information listed above. The Department will retain all comments received without making any changes to the comments, including any personal information provided. The Department therefore cautions commenters not to include their personal information such as Social Security Numbers, personal addresses, telephone numbers, and email addresses in their comments; this information would be released with the comment if the comments are requested. It is the commenter's responsibility to safeguard his or her information. If the comment is submitted by email, the email addresses of the commenter will not be released.

FOR FURTHER INFORMATION CONTACT: WIA Youth Activities allotments—Evan Rosenberg at (202) 693–3593 or LaSharn Youngblood at (202) 693–3606; WIA Adult and Dislocated Worker Activities and ES final allotments—Robert Kight at (202) 693–3937; Workforce Information Grant allotments—Anthony Dais at (202) 693–2784. Individuals with hearing or speech impairments may access the telephone numbers above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD).

SUPPLEMENTARY INFORMATION: The Department of Labor (Department) is announcing WIA allotments for PY 2013 for Youth Activities, Adults and Dislocated Worker Activities, Wagner-Peyser Act PY 2013 final allotments, and PY 2013 Workforce Information Grant allotments. This notice provides information on the amount of funds available during PY 2013 to States with an approved WIA Title I and Wagner-Peyser Act Strategic Plan for PY 2013, and information regarding allotments to the outlying areas.

The allotments are based on the funds appropriated in the Consolidated and Further Continuing Appropriations Act, 2013, Public Law (Pub. L.) 113–6, Divisions F and G, signed into law on March 26, 2013. The Act requires an across-the-board rescission of 0.2 percent to all Federal Fiscal Year (FY) 2013 discretionary program funding and is subject to the sequestration order required by section 251A of the Balanced Budget and Emergency Deficit Control Act, as amended. Included below are tables listing the PY 2013 allotments for programs under WIA Title I Youth Activities (Table A), Adult and Dislocated Workers Employment and Training Activities (Tables B and C, respectively), and the PY 2013 Wagner-Peyser Act final allotments (Table D). Also attached is the PY 2013 Workforce Information Grant table (Table E).

Youth Activities Allotments. PY 2013 Youth Activities funds under WIA total $781,375,289, after accounting for the 0.2 percent rescission and sequestration reductions, hereafter referred to as "the reductions." Table A includes a breakdown of the Youth Activities program allotments for PY 2013 and provides a comparison of these allotments to PY 2012 Youth Activities allotments for all States, and outlying areas. Before determining the amount available for States, the total funding available for the outlying areas was reserved at 0.25 percent of the full amount appropriated for Youth Activities (after the reductions). On December 17, 2003, Public Law 108–188, the *Compact of Free Association Amendments Act of 2003 ("the Compact"),* was signed into law. The Compact provided for consolidation of WIA Title I funding, for the Marshall Islands and Micronesia into supplemental grants provided from the Department of Education's appropriation. See 48 U.S.C. 1921d(f)(1)(B)(iii). The Compact also specified that the Republic of Palau remained eligible for WIA Title I funding. See 48 USC 1921d(f)(1)(B)(ix). The Consolidated Appropriations Act, 2012 (in the Department of Education's General Provisions at Section 306 of Title III, Division F, Pub. L. 112–74) amended the Compact to extend the availability of WIA Title I funding to Palau through FY 2012. Section 1105 of the Consolidated and Further Continuing Appropriations Act, 2013, further extended the same funding to Palau through FY 2013.

Under WIA, the Secretary has discretion for determining the methodology for distributing funds to all outlying areas. The Department used the same methodology since PY 2000, i.e., funds are distributed among the remaining areas by formula based on relative share of number of unemployed, a 90 percent hold-harmless of the prior year share, a $75,000 minimum, and a 130 percent stop-gain of the prior year share. For PY 2013, the Department updated the data for the relative share calculation with data obtained from the 2010 Census for American Samoa, Guam, Commonwealth of Northern Marianas Islands, and Virgin Islands. The Department updated data for Palau from Palau's 2005 Census.

For the Native American Youth program, the total amount available is 1.5 percent of the total amount for Youth Activities, in accordance with WIA section 127. After the Department calculated the amount for the outlying areas and Native Americans, we determined that the amount available for PY 2013 allotments to the States is $767,701,222. This total amount was below the required $1 billion threshold specified in WIA section 127(b)(1)(C)(iv)(IV); therefore, as in PY 2012, the WIA additional minimum provisions were not applied, and, instead, as required by WIA, the Department used the Job Training Partnership Act (JTPA) section 202(a)(3) (as amended by section 701 of the Job Training Reform Amendments of 1992) minimums of 90 percent hold-harmless of the prior year allotment percentage and 0.25 percent State minimum floor. Also, the Department used the provision applying a 130 percent stop-gain of the prior year allotment percentage, as required by WIA. The three data factors required by WIA for the PY 2013 Youth Activities State formula allotments are:

(1) Number of unemployed for Areas of Substantial Unemployment (ASUs) averages for the 12-month period, July 2011–June 2012;

(2) Number of excess unemployed individuals or the ASU excess (depending on which is higher) averages for the same 12-month period used for ASU unemployed data; and

(3) Number of economically disadvantaged Youth (age 16 to 21, excluding college students in the workforce and military) from special tabulations of data from the American Community Survey (ACS), which the Department obtained from the Bureau in 2012. The Bureau collected the data used in the special tabulations for economically disadvantaged Youth between January 1, 2006–December 31, 2010.

Beginning with the PY 2006 allotments, States identify the ASU data for the PY 2013 allotments using special 2000 Census data based on households, obtained under ETA contract with the Census Bureau and which the Bureau of Labor Statistics (BLS) provided to States. States must continue to use the data provided in 2006 for the ASU identification process until further notice. For purposes of determining the number of economically disadvantaged Youth for the statutory within-state allocation formula, States should use the special tabulations of ACS data available at *http://www.doleta.gov/budget/disadvantagedYouthAdults.cfm.* See TEGL No. 21–12 for further information.

Adult Employment and Training Activities Allotments. After accounting for the 0.2 rescission and sequestration reductions, $730,624,342 is available for obligation to the States and outlying areas for PY 2013. The 0.2 rescission and sequestration reductions applied to both the FY 2013 "advance" funding (funds made available for PY 2012 on October 1, 2012) and the "regular" PY 2013 funding (available July 1, 2013). To avoid rescinding funding already allocated to States and localities, the Department fully applied the rescission and sequestration reductions from both the advance and regular appropriations to the July 1, 2013 portion of the PY 2013 allotments.

Table B shows the initial PY 2013 Adult Employment and Training Activities allotments, the reductions related to the FY 2013 Advance, the final PY 2013 allotment amounts, and a comparison of the final PY 2013 allotments to PY 2012 allotments by State. Like the Youth Activities program, the Department reserved the total available for the outlying areas at 0.25 percent of the full amount appropriated for Adult Activities after accounting for the reductions applicable to the funding available July 1, 2013 only. As discussed in the Youth Activities section above, WIA funding for the Marshall Islands and Micronesia is no longer provided; instead, funding is provided for these territories in the Department of Education's appropriation.

The Department distributed the Adult Activities funding for the remaining outlying areas (for which the distribution methodology is at the Secretary's discretion), using the same principles, formula and data as used for outlying areas for Youth Activities. After determining the amount for the outlying areas, the Department used statutory formula to distribute the remaining amount available for allotments to the States. The Department did not apply the WIA minimum provisions for the PY 2013 allotments because the total amount available for the States was below the $960 million threshold required for Adult Activities in WIA section 132(b)(1)(B)(iv)(IV). Instead, as required by WIA, the Department calculated minimum allotments using the JTPA section 202(a)(3) (as amended by section 701 of the Job Training Reform Amendments of 1992) minimums of 90 percent hold-harmless of the prior year allotment percentage and 0.25 percent State minimum floor. The Department also applied a 130 percent stop-gain of the prior year allotment percentage. The three formula data factors for the Adult Activities program are the same as those used for the Youth Activities formula, except the Department used data for the number of economically disadvantaged Adults (age 22 to 72, excluding college students in the workforce and military).

As noted above, updated data for within-State allocation formulas is available for economically disadvantaged Adults; but, for ASU calculations, States should continue to use the data BLS provided to States in October 2006.

Dislocated Worker Employment and Training Activities Allotments. A total of $1,179,657,807 is available for Dislocated Worker activities in PY 2013. The total appropriation includes formula funds for the States, while the National Reserve is used for National Emergency Grants, technical assistance and training, demonstration projects, and the outlying areas' Dislocated Worker allotments. The 0.2 rescission and sequestration reductions applied to both the FY 2013 "advance" funding (funds made available for PY 2012 on October 1, 2012) and the "regular" PY 2013 funding (available July 1, 2013). For the National Reserve funding, the Department has fully applied the rescission and sequestration reductions for the FY 2013 "advance" funding. For the Dislocated Worker State formula funds, to avoid rescinding funding already allocated to States and localities, the Department has fully applied the rescission and sequestration reductions for the advance and regular appropriations to the July 1, 2013 portion of the PY 2013 allotments. The amount available for outlying areas is $3,061,235, leaving $221,005,193 for the National Reserve. This leaves a total of $955,591,379 available for States. Like the Adult program, Table C shows the initial PY 2013 Dislocated Worker Activities fund allotments, the reductions related to the FY 2013 Advance, the final PY 2013 allotment amounts, and a comparison of the final PY 2013 allotments to PY 2012 allotments by State.

Like the Youth and Adult Activities programs, the Department reserved the total available for the outlying areas at 0.25 percent of the full amount appropriated for Dislocated Worker Activities after accounting for the reductions applicable to the funding available July 1, 2013 only. WIA funding for the Marshall Islands and Micronesia is no longer provided, as discussed above. The Department distributed the Dislocated Worker Activities funds for grants to the remaining outlying areas, over which the Secretary maintains discretion for choosing the distribution methodology, using the same pro rata share as the areas received for the PY 2013 WIA Adult Activities program, the same methodology used in PY 2012.

The three data factors required in WIA for the PY 2013 Dislocated Worker State formula allotments are:

(1) Number of unemployed, averages for the 12-month period, October 2011–September 2012;

(2) Number of excess unemployed, averages for the 12-month period, Since the Dislocated Worker Activities formula has no floor amount or hold-harmless provisions, funding changes for States directly reflect the impact of changes in unemployment related data listed above, October 2011–September 2012; and

(3) Number of long-term unemployed, averages for the 12-month period, October 2011–September 2012.

Wagner-Peyser Act ES Final Allotments. The appropriated level for PY 2013 for ES grants totals $664,183,664 (including the reductions). After determining the funding for outlying areas, the Department calculated allotments to States using the formula set forth at section 6 of the Wagner-Peyser Act (29 U.S.C. 49e). The Department based PY 2013 formula allotments on each State's share of calendar year 2012 monthly averages of the civilian labor force (CLF) and unemployment. The Secretary is required to set aside up to three percent of the total funds available for ES to ensure that each State will have sufficient resources to maintain statewide ES activities, as required under section 6(b)(4) of the Wagner-Peyser Act. In accordance with this provision, the three percent set-aside funds are included in this total allotment. The Department distributed the set-aside funds in two steps to States that have lost in their relative share of the total resources available this year from their relative share of the total resources available the previous year. In Step 1, States that have a CLF below one million and are also below the median CLF density were maintained at 100 percent of their relative share of prior year resources. ETA calculated the median CLF density based on CLF data provided by BLS for calendar year 2012. All remaining set-aside funds were distributed on a pro-rata basis in Step 2 to all other States losing in relative share from the prior year but not meeting the size and density criteria for Step 1. The distribution of ES funds (Table D) includes $662,564,615 for States, as well as $1,619,049 for outlying areas.

Under section 7 of the Wagner-Peyser Act, 10 percent of the total sums allotted to each State must be reserved for use by the Governor to provide performance incentives for ES offices, services for groups with special needs, and for the extra costs of exemplary models for delivering job services.

Workforce Information Grants Allotments. Total PY 2013 funding for Workforce Information Grants allotments to States is $31,939,520, the same as appropriated in PY 2012. The allotment figures for each State are listed in Table E. Funds are distributed by administrative formula, with a reserve of $176,655 for Guam and the Virgin Islands. Guam and the Virgin Islands allotment amounts are partially based on CLF data, which the Department updated this year with data from the 2010 Census. The Department distributes the remaining funds to the States with 40 percent distributed equally to all States and 60 percent distributed based on each State's share of CLF for the 12 months ending September 2012.

TABLE A—U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION WIA YOUTH ACTIVITIES STATE ALLOTMENTS

[Comparison of PY 2013 vs PY 2012]

State	PY 2012	PY 2013	Difference	Percent difference
Total	$824,353,022	$781,375,289	($43,116,496)	−5.23
Alabama	11,711,479	10,504,766	(1,208,608)	−10.32
Alaska	2,024,817	1,919,253	(105,910)	−5.23
Arizona	16,510,641	15,938,449	(575,065)	−3.48
Arkansas	6,431,994	6,367,716	(65,425)	−1.02
California	123,857,750	118,211,133	(5,667,930)	−4.58
Colorado	11,882,561	11,600,883	(283,769)	−2.39
Connecticut	8,794,724	8,152,502	(643,692)	−7.32
Delaware	2,024,817	1,919,253	(105,910)	−5.23
District of Columbia	2,323,591	2,074,840	(249,125)	−10.72
Florida	53,892,125	47,791,321	(6,109,420)	−11.34
Georgia	25,482,266	25,123,453	(363,342)	−1.43
Hawaii	2,243,958	2,174,842	(69,508)	−3.10
Idaho	4,027,145	3,623,538	(404,260)	−10.04
Illinois	32,767,678	33,775,763	1,001,995	3.06
Indiana	15,457,182	15,696,820	236,808	1.53
Iowa	4,962,142	4,671,103	(291,882)	−5.88
Kansas	5,511,824	5,304,061	(208,719)	−3.79
Kentucky	12,676,374	11,299,654	(1,378,758)	−10.88
Louisiana	11,409,318	9,733,043	(1,678,030)	−14.71
Maine	2,831,274	2,888,765	56,970	2.01
Maryland	10,354,690	10,289,216	(67,329)	−0.65
Massachusetts	15,009,154	12,803,985	(2,207,477)	−14.71
Michigan	37,407,571	31,911,591	(5,501,733)	−14.71
Minnesota	10,523,152	9,841,004	(683,923)	−6.50
Mississippi	9,452,885	8,556,357	(898,071)	−9.50
Missouri	15,108,428	13,072,955	(2,037,831)	−13.49
Montana	2,405,630	2,105,266	(300,743)	−12.50
Nebraska	2,207,155	2,157,402	(50,142)	−2.27
Nevada	9,104,832	9,407,590	301,062	3.31
New Hampshire	2,024,817	1,919,253	(105,910)	−5.23
New Jersey	20,322,861	21,422,496	1,095,773	5.39
New Mexico	4,918,291	4,195,688	(723,360)	−14.71
New York	45,892,839	46,093,646	192,497	0.42
North Carolina	23,736,834	26,575,543	2,833,919	11.94
North Dakota	2,024,817	1,919,253	(105,910)	−5.23
Ohio	29,136,945	25,942,472	(3,199,150)	−10.98
Oklahoma	6,676,111	5,982,158	(695,032)	−10.41
Oregon	10,760,018	9,901,654	(860,149)	−7.99
Pennsylvania	28,346,353	27,854,861	(496,514)	−1.75
Puerto Rico	21,476,993	18,321,559	(3,158,737)	−14.71
Rhode Island	3,687,520	3,676,868	(11,315)	−0.31
South Carolina	12,754,206	12,151,961	(604,436)	−4.74
South Dakota	2,024,817	1,919,253	(105,910)	−5.23
Tennessee	15,784,120	15,045,025	(741,807)	−4.70
Texas	55,664,646	52,525,623	(3,148,493)	−5.66
Utah	5,347,985	4,562,251	(786,557)	−14.71
Vermont	2,024,817	1,919,253	(105,910)	−5.23
Virginia	13,020,339	12,509,940	(512,655)	−3.94
Washington	16,959,549	16,388,794	(573,711)	−3.38
West Virginia	4,577,244	3,904,748	(673,200)	−14.71
Wisconsin	12,342,748	12,133,146	(211,789)	−1.72
Wyoming	2,024,817	1,919,253	(105,910)	−5.23
State Total	809,926,844	767,701,222	(42,364,033)	−5.23
American Samoa	117,112	144,308	27,170	23.20
Guam	953,260	813,205	(140,201)	−14.71
Northern Marianas	352,754	367,640	14,814	4.20
Palau	75,000	75,000	0	0.00
Virgin Islands	562,757	553,285	(9,580)	−1.70
Outlying Areas Total	2,060,883	1,953,438	(107,797)	−5.23
Native Americans	12,365,295	11,720,629	(644,666)	−5.23

TABLE B—U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION WIA ADULT ACTIVITIES STATE ALLOTMENTS

[Comparison of PY 2013 vs PY 2012]

State	PY 2012	Initial PY 2013	Sequestration and rescission on FY 2013 advance (10/1/2012 funds)	Final PY 2013	Difference between PY 2012 and final PY 2013	% difference
Total	$770,810,637	$767,744,538	($37,120,196)	$730,624,342	($40,186,295)	−5.21
Alabama	11,433,310	10,774,870	(550,598)	10,224,272	(1,209,038)	−10.57
Alaska	1,922,209	1,914,563	(92,568)	1,821,995	(100,214)	−5.21
Arizona	15,820,881	15,805,851	(761,892)	15,043,959	(776,922)	−4.91
Arkansas	6,067,684	6,397,416	(292,204)	6,105,212	37,528	0.62
California	120,000,208	119,072,199	(5,778,892)	113,293,307	(6,706,901)	−5.59
Colorado	10,859,799	11,333,289	(522,979)	10,810,310	(49,489)	−0.46
Connecticut	7,932,575	7,863,132	(382,012)	7,481,120	(451,455)	−5.69
Delaware	1,922,209	1,914,563	(92,568)	1.821,995	(100,214)	−5.21
District of Columbia	1,973,348	1,982,458	(95,031)	1,887,427	(85,921)	−4.35
Florida	53,270,412	49,887,034	(2,565,362)	47,321,672	(5,948,740)	−11.17
Georgia	24,047,603	25,377,504	(1,158,069)	24,219,435	171,832	0.71
Hawaii	2,357,815	2,387,081	(113,546)	2,273,535	(84,280)	−3.57
Idaho	3,566,489	3,541,566	(171,753)	3,369,813	(196,676)	−5.51
Illinois	30,469,621	33,288,438	(1,467,336)	31,821,102	1,351,481	4.44
Indiana	13,618,422	15,009,181	(655,827)	14,353,354	734,932	5.40
Iowa	3,670,939	3,542,671	(176,783)	3,365,888	(305,051)	−8.31
Kansas	4,614,871	4,711,647	(222,240)	4,489,407	(125,464)	−2.72
Kentucky	13,197,513	12,213,672	(635,557)	11,578,115	(1,619,398)	−12.27
Louisiana	10,605,200	9,506,714	(510,718)	8,995,996	(1,609,204)	−15.17
Maine	2,687,582	2,763,826	(129,427)	2,634,399	(53,183)	−1.98
Maryland	9,857,689	10,015,684	(474,720)	9,540,964	(316,725)	−3.21
Massachusetts	13,525,014	12,124,093	(651,329)	11,472,764	(2,052,250)	−15.17
Michigan	35,029,449	31,401,099	(1,686,925)	29,714,174	(5,315,275)	−15.17
Minnesota	9,134,795	8,895,597	(439,908)	8,455,689	(679,106)	−7.43
Mississippi	8,823,631	8,592,147	(424,923)	8,167,224	(656,407)	−7.44
Missouri	14,003,193	12,806,269	(674,357)	12,131,912	(1,871,281)	−13.36
Montana	2,348,495	2,106,672	(113,097)	1,993,575	(354,920)	−15.11
Nebraska	1,922,209	1,914,563	(92,568)	1,821,995	(100,214)	−5.21
Nevada	8,978,521	9,626,054	(432,382)	9,193,672	215,151	2.40
New Hampshire	1,922,209	1,914,563	(92,568)	1,821,995	(100,214)	−5.21
New Jersey	20,260,335	21,816,638	(975,684)	20,840,954	580.619	2.87
New Mexico	4,727,107	4,246,174	(227,645)	4,018,529	(708,578)	−14.99
New York	45,779,283	46,985,573	(2,204,609)	44,780,964	(998,319)	−2.18
North Carolina	22,178,866	26,699,336	(1,068,075)	25,631,261	3,452,395	15.57
North Dakota	1,922,209	1,914,563	(92,568)	1,821,995	(100,214)	−5.21
Ohio	27,089,923	25,306,837	(1,304,579)	24,002,258	(3,087,665)	−11.40
Oklahoma	6,289,462	6,077,467	(302,884)	5,774,583	(514,879)	−8.19
Oregon	10,151,677	9,984,353	(488,878)	9,495,475	(656,202)	−6.46
Pennsylvania	26,000,980	26,635,263	(1,252,138)	25,383,125	(617,855)	−2.38
Puerto Rico	22,849,985	20,483,184	(1,100,395)	19,382,789	(3,467,196)	−15.17
Rhode Island	3,182,636	3,350,098	(153,267)	3,196,831	14,195	0.45
South Carolina	12,076,612	12,328,323	(581,578)	11,746,745	(329,867)	−2.73
South Dakota	1,922,209	1,914,563	(92,568)	1,821,995	(100,214)	−5.21
Tennessee	15,406,376	15,445,870	(741,930)	14,703,940	(702,436)	−4.56
Texas	52,386,229	52,667,569	(2,522,782)	50,144,787	(2,241,442)	−4.28
Utah	4,258,913	3,930,694	(205,098)	3,725,596	(533,317)	−12.52
Vermont	1,922,209	1,914,563	(92,568)	1,821,995	(100,214)	−5.21
Virginia	11,977,315	12,223,912	(576,796)	11,647,116	(330,199)	−2.76
Washington	15,738,264	16,105,423	(757,913)	15,347,510	(390,754)	−2.48
West Virginia	4,670,162	4,186,427	(224,903)	3,961,524	(708,638)	−15.17
Wisconsin	10,586,754	11,009,368	(509,830)	10,499,538	(87,216)	−0.82
Wyoming	1,922,209	1,914,563	(92,568)	1,821,995	(100,214)	−5.21
State Total	768,883,610	765,825,177	(37,027,395)	728,797,782	(40,085,828)	−5.21
American Samoa	109,218	141,419	(5,260)	136,159	26,941	24.67
Guam	889,007	796,923	(42,812)	754,111	(134,896)	−15.17
Northern Marianas	328,977	361,690	(15,843)	345,847	16,870	5.13
Palau	75,000	75,000	(3,612)	71,388	(3,612)	−4.82
Virgin Islands	524,825	544,329	(25,274)	519,055	(5,770)	−1.10
Outlying Areas Total	1,927,027	1,919,361	(92,801)	1,826,560	(100,467)	−5.21

TABLE C—U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION WIA DISLOCATED WORKER ACTIVITIES STATE ALLOTMENTS

[Comparison of PY 2013 vs PY 2012]

State	PY 2012	Initial PY 2013	Sequestration and rescission on FY 2013 advance (10/1/2012 funds)	Final PY 2013	Difference between PY 2012 and final PY 2013	Percent Difference
Total	$1,232,217,892	$1,224,493,999	($44;836,192)	$1,179,657,807	($52,560,085)	−4.27
Alabama	15,469,879	13,143,816	(688,002)	12,455,814	(3,014,065)	−19.48
Alaska	1,617,337	1,774,247	(71,929)	1,702,318	84,981	5.25
Arizona	21,499,925	19,289,363	(956,180)	18,333,183	(3,166,742)	−14.73
Arkansas	7,022,211	7,193,377	(312,303)	6,881,074	(141,137)	−2.01
California	167,279,720	170,422,395	(7,439,542)	162,982,853	(4,296,867)	−2.57
Colorado	16,138,114	16,390,208	(717,721)	15,672,487	(465,627)	−2.89
Connecticut	12,425,813	12,465,716	(552,621)	11,913,095	(512,718)	−4.13
Delaware	2,364,143	2,241,532	(105,142)	2,136,390	(227,753)	−9.63
District of Columbia	2,584,544	2,848,708	(114,944)	2,733,764	149,220	5.77
Florida	77,488,229	70,555,560	(3,446,185)	67,109,375	(10,378,854)	−13.39
Georgia	36,619,541	35,530,708	(1,628,605)	33,902,103	(2,717,438)	−7.42
Hawaii	2,544,104	2,771,633	(113,146)	2,658,487	114,383	4.50
Idaho	4,848,656	4,329,125	(215,638)	4,113,487	(735,169)	−15.16
Illinois	45,174,858	49,424,238	(2,009,091)	47,415,147	2,240,289	4.96
Indiana	19,764,183	20,089,936	(878,986)	19,210,950	(553,233)	−2.80
Iowa	5,396,211	4,719,599	(239,989)	4,479,610	(916,601)	−16.99
Kansas	6,269,130	5,523,142	(278,811)	5,244,331	(1,024,799)	−16.35
Kentucky	14,426,545	13,312,075	(641,601)	12,670,474	(1,756,071)	−12.17
Louisiana	10,053,020	10,790,496	(447,095)	10,343,401	290,381	2.89
Maine	3,411,860	3,710,044	(151,738)	3,558,306	146,446	4.29
Maryland	13,446,336	14,758,342	(598,008)	14,160,334	713,998	5.31
Massachusetts	18,123,153	15,492,951	(806,003)	14,686,948	(3,436,205)	−18.96
Michigan	37,950,243	33,519,750	(1,687,786)	31,831,964	(6,118,279)	−16.12
Minnesota	12,016,430	10,111,496	(534,415)	9,577,081	(2,439,349)	−20.30
Mississippi	10,347,245	10,182,193	(460,180)	9,722,013	(625,232)	−6.04
Missouri	19,339,341	15,732,664	(860,091)	14,872,573	(4,466,768)	−23.10
Montana	2,228,454	1,919,192	(99,108)	1,820,084	(408,370)	−18.33
Nebraska	1,769,045	1,858,504	(78,676)	1,779,828	10,783	0.61
Nevada	14,404,698	14,631,230	(640,630)	13,990,600	(414,098)	−2.87
New Hampshire	2,023,863	2,282,021	(90,009)	2,192,012	168,149	8.31
New Jersey	30,891,644	35,654,527	(1,373,865)	34,280,662	3,389,018	10.97
New Mexico	4,691,620	4,595,739	(208,654)	4,387,085	(304,535)	−6.49
New York	53,040,830	66,651,917	(2,358,920)	64,292,997	11,252,167	21.21
North Carolina	33,775,540	37,856,507	(1,502,122)	36,354,385	2,578,845	7.64
North Dakota	491,586	488,019	(21,863)	466,156	(25,430)	−5.17
Ohio	37,410,700	31,511,888	(1,663,791)	29,848,097	(7,562,603)	−20.22
Oklahoma	5,818,181	5,489,616	(258,756)	5,230,860	(587,321)	−10.09
Oregon	14,179,357	13,175,362	(630,608)	12,544,754	(1,634,603)	−11.53
Pennsylvania	33,628,882	36,753,112	(1,495,600)	35,257,512	1,628,630	4.84
Puerto Rico	13,792,527	14,271,193	(613,404)	13,657,789	(134,738)	−0.98
Rhode Island	4,729,397	5,281,630	(210,334)	5,071,296	341,899	7.23
South Carolina	17,247,928	16,220,200	(767,079)	15,453,121	(1,794,807)	−10.41
South Dakota	914,615	758,427	(40,676)	717,751	(196,864)	−21.52
Tennessee	21,002,405	19,051,046	(934,054)	18,116,992	(2,885,413)	−13.74
Texas	65,045,270	61,165,151	(2,892,802)	58,272,349	(6,772,921)	−10.41
Utah	6,236,314	4,576,801	(277,352)	4,299,449	(1,936,865)	−31.06
Vermont	1,060,351	911,298	(47,158)	864,140	(196,211)	−18.50
Virginia	16,429,934	16,371,344	(730,699)	15,640,645	(789,289)	−4.80
Washington	22,715,887	22,486,699	(1,010,259)	21,476,440	(1,239,447)	−5.46
West Virginia	4,805,556	4,206,385	(213,721)	3,992,664	(812,892)	−16.92
Wisconsin	15,286,735	15,028,877	(679,857)	14,349,020	(937,715)	−6.13
Wyoming	909,374	907,572	(40,443)	867,129	(42,245)	−4.65
State Total	1,008,151,464	1,000,427,571	(44,836,192)	955,591,379	(52,560,085)	−5.21
American Samoa	174,596	225,553	0	225,553	50,957	29.19
Guam	1,421,166	1,271,032	0	1,271,032	(150,134)	−10.56
Northern Marianas	525,903	576,868	0	576,868	50,965	9.69
Palau	119,895	119,619	0	119,619	(276)	−0.23
Virgin Islands	838,985	868,163	0	868,163	29,178	3.48
Outlying Areas Total	3,080,545	3,061,235	0	3,061,235	(19,310)	−0.63
National Reserve	220,985,883	221,005,193	0	221,005,193	19,310	0.01

TABLE D—U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION EMPLOYMENT SERVICE (WAGNER-PEYSER)

[PY 2013 vs PY 2012 Final Allotments]

State	Final PY 2012	Final PY 2013	Difference	Percent difference
Total	$700,841,900	$664,183,664	($36,658,236)	-5.23
Alabama	9,114,728	8,569,344	(545,384)	-5.98
Alaska	7,618,486	7,219,993	(398,493)	-5.23
Arizona	13,416,510	12,527,937	(888,573)	-6.62
Arkansas	5,641,422	5,322,835	(318,587)	-5.65
California	83,874,952	79,878,737	(3,996,215)	-4.76
Colorado	11,123,996	10,701,027	(422,969)	-3.80
Connecticut	7,886,732	7,579,931	(306,801)	-3.89
Delaware	1,957,574	1,855,181	(102,393)	-5.23
District of Columbia	2,361,773	2,168,988	(192,785)	-8.16
Florida	41,597,929	38,965,509	(2,632,420)	-6.33
Georgia	20,518,463	19,478,108	(1,040,355)	-5.07
Hawaii	2,474,455	2,343,342	(131,113)	-5.30
Idaho	6,347,555	6,015,540	(332,015)	-5.23
Illinois	28,905,034	27,258,028	(1,647,006)	-5.70
Indiana	13,614,524	12,822,043	(792,481)	-5.82
Iowa	6,439,570	6,011,854	(427,716)	-6.64
Kansas	5,924,673	5,554,935	(369,738)	-6.24
Kentucky	9,063,496	8,512,743	(550,753)	-6.08
Louisiana	8,712,855	8,134,111	(578,744)	-6.64
Maine	3,774,830	3,577,384	(197,446)	-5.23
Maryland	11,687,183	11,522,943	(164,240)	-1.41
Massachusetts	14,148,935	13,248,486	(900,449)	-6.36
Michigan	23,547,173	21,625,084	(1,922,089)	-8.16
Minnesota	11,868,691	11,084,590	(784,101)	-6.61
Mississippi	6,118,274	5,719,384	(398,890)	-6.52
Missouri	12,837,723	11,976,795	(860,928)	-6.71
Montana	5,187,254	4,915,929	(271,325)	-5.23
Nebraska	6,234,060	5,725,191	(508,869)	-8.16
Nevada	6,505,421	6,161,654	(343,767)	5.28
New Hampshire	2,803,840	2,642,832	(161,008)	-5.74
New Jersey	19,163,297	19,163,183	(114)	0.00
New Mexico	5,821,012	5,516,538	(304,474)	-5.23
New York	39,748,915	38,535,164	(1,213,751)	-3.05
North Carolina	19,836,199	19,585,198	(251,001)	-1.27
North Dakota	5,282,176	5,005,887	(276,289)	-5.23
Ohio	25,946,567	23,954,983	(1,991,584)	-7.68
Oklahoma	6,779,019	6,384,955	(394,064)	-5.81
Oregon	8,758,927	8,218,324	(540,603)	-6.17
Pennsylvania	26,310,462	25,228,309	(1,082,153)	-4.11
Puerto Rico	7,686,516	7,059,087	(627,429)	-8.16
Rhode Island	2,618,648	2,471,893	(146,755)	-5.60
South Carolina	9,785,215	9,156,659	(628,556)	-6.42
South Dakota	4,881,946	4,626,591	(255,355)	-5.23
Tennessee	13,308,517	12,520,213	(788,304)	-5.92
Texas	49,945,739	47,277,917	(2,667,822)	-5.34
Utah	7,113,078	6,532,457	(580,621)	-8.16
Vermont	2,286,981	2,167,358	(119,623)	-5.23
Virginia	15,905,779	15,425,187	(480,592)	-3.02
Washington	14,673,520	13,893,830	(779,690)	-5.31
West Virginia	5,587,868	5,295,589	(292,279)	-5.23
Wisconsin	12,597,349	11,835,302	(762,047)	6.05
Wyoming	3,787,650	3,589,533	(198,117)	-5.23
State Total	699,133,491	662,564,615	(36,568,876)	-5.23
Guam	327,940	310,787	(17,153)	-5.23
Virgin Islands	1,380,469	1,308,262	(72,207)	-5.23
Outlying Areas Total	1,708,409	1,619,049	(89,360)	-5.23

TABLE E—U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION WORKFORCE INFORMATION GRANTS TO STATES

[PY 2013 vs PY 2012 allotments]

State	PY 2012	PY 2013	Difference	Percent difference
Total	$31,939,520	$31,939,520	$0	0.00

TABLE E—U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION WORKFORCE INFORMATION GRANTS TO STATES—Continued

[PY 2013 vs PY 2012 allotments]

State	PY 2012	PY 2013	Difference	Percent difference
Alabama	508,082	507,498	(584)	−0.11
Alaska	289,182	289,152	(30)	−0.01
Arizona	634,754	611,887	(22,867)	−3.60
Arkansas	411,636	413,051	1,415	0.34
California	2,471,363	2,494,284	22,921	0.93
Colorado	574,272	577,616	3,344	0.58
Connecticut	476,928	477,665	737	0.15
Delaware	296,619	298,044	1,425	0.48
District of Columbia	285,345	287,102	1,757	0.62
Florida	1,382,267	1,377,539	(4,728)	−0.34
Georgia	822,490	824,786	2,296	0.28
Hawaii	322,178	324,046	1,868	0.58
Idaho	338,014	339,198	1,184	0.35
Illinois	1,059,262	1,048,080	(11,182)	−1.06
Indiana	628,745	633,362	4,617	0.73
Iowa	450,398	446,571	(3,827)	−0.85
Kansas	429,282	427,285	(1,997)	−0.47
Kentucky	503,058	496,768	(6,290)	−1.25
Louisiana	498,490	496,842	(1,648)	−0.33
Maine	330,165	330,683	518	0.16
Maryland	611,479	620,509	9,030	1.48
Massachusetts	674,268	666,310	(7,958)	−1.18
Michigan	826,454	812,448	(14,006)	−1.69
Minnesota	610,066	607,376	(2,690)	−0.44
Mississippi	409,097	407,924	(1,173)	−0.29
Missouri	616,486	612,833	(3,653)	−0.59
Montana	305,900	306,346	446	0.15
Nebraska	365,623	368,239	2,616	0.72
Nevada	406,858	411,657	4,799	1.18
New Hampshire	335,775	334,747	(1,028)	−0.31
New Jersey	797,757	803,433	5,676	0.71
New Mexico	360,655	357,589	(3,066)	−0.85
New York	1,421,421	1,408,967	(12,454)	−0.88
North Carolina	796,599	814,453	17,854	2.24
North Dakota	290,251	291,774	1,523	0.52
Ohio	968,454	950,865	(17,589)	−1.82
Oklahoma	458,559	463,255	4,696	1.02
Oregon	489,737	486,746	(2,991)	−0.61
Pennsylvania	1,024,530	1,030,074	5,544	0.54
Puerto Rico	401,448	400,028	(1,420)	−0.35
Rhode Island	314,447	312,502	(1,945)	−0.62
South Carolina	510,204	506,743	(3,461)	−0.68
South Dakota	299,393	298,818	(575)	−0.19
Tennessee	626,347	624,764	(1,583)	−0.25
Texas	1,751,537	1,778,866	27,329	1.56
Utah	410,985	408,422	(2,563)	−0.62
Vermont	288,917	288,122	(795)	−0.28
Virginia	761,294	773,526	12,232	1.61
Washington	674,609	671,854	(2,755)	−0.41
West Virginia	340,288	342,244	1,956	0.57
Wisconsin	620,620	618,228	(2,392)	−0.39
Wyoming	280,277	281,744	1,467	0.52
State Total	31,762,865	31,762,865	0	0.00
Guam	92,818	93,009	191	0.21
Virgin Islands	83,837	83,646	(191)	−0.23
Outlying Areas Total	176,655	176,655	0	0.00

Signed at Washington, DC, on this 7th day of May, 2013.

Jane Oates,

Assistant Secretary.

[FR Doc. 2013–11475 Filed 5–14–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Veterans' Employment and Training Service

Advisory Committee on Veterans' Employment, Training, and Employer Outreach (ACVETEO); Notice of Charter Renewal and a Public Meeting

AGENCY: Veterans' Employment and Training Service, U.S. Department of Labor.

ACTION: Notice of charter renewal and a public meeting.

Notice of Charter Renewal: In accordance with section 4110 of Title 38, U.S. Code, the provisions of the Federal Advisory Committee Act (FACA) and its implementing regulations issued by the U.S. General Services Administration (GSA), the Department is renewing the charter for the Advisory Committee on Veterans' Employment, Training, and Employer Outreach (ACVETEO).

The ACVETEO's responsibilities are to: (a) Assess employment and training needs of veterans and their integration into the workforce; (b) determine the extent to which the programs and activities of the U.S. Department of Labor (DOL) are meeting such needs; (c) assist the Assistant Secretary for Veterans' Employment and Training (ASVET) in conducting outreach to employers with respect to the training and skills of veterans and the advantages afforded employers by hiring veterans; (d) make recommendations to the Secretary of Labor, through the ASVET, with respect to outreach activities and the employment and training needs of veterans; and (e) carry out such other activities deemed necessary to making required reports and recommendations under section 4110(f) of Title 38, U.S. Code.

Per section 4110(c)(1) of Title 38, U.S. Code, the Secretary of Labor shall appoint at least 12, but no more than 16, individuals to serve as members of the ACVETEO as follows: 7 individuals, 1 each from among representatives nominated by each of the following organizations: (i) The Society for Human Resource Management; (ii) the Business Roundtable; (iii) the National Association of State Workforce Agencies; (iv) the United States Chamber of Commerce; (v) the National Federation of Independent Business; (vi) a nationally recognized labor union or organization; and (vii) the National Governors Association; not more than 5 individuals from among representatives nominated by veterans' service organizations that have a national employment program; not more than 5 individuals who are recognized authorities in the fields of business, employment, training, rehabilitation, or labor and who are not employees of DOL.

The ACVETEO will report to the Secretary of Labor. It will function solely as an advisory body and in compliance with the provisions of the FACA, and its charter will be filed under the FACA. For more information, contact Timothy A. Green, Designated Federal Official, ACVETEO, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210; telephone (202) 693–4700.

Notice of Public Meeting: In accordance with section 4110 of Title 38, U.S. Code, and the provisions of the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2 § 10), notice is hereby given to announce a public meeting of the Advisory Committee on Veterans' Employment, Training, and Employer Outreach (ACVETEO) on June 20, 2013. This notice includes the agenda and provides supplementary information to support the meeting. All meetings of the ACVETEO are open to the public.

DATES: The meeting will begin at approximately 9:30 a.m. Eastern Standard Time on Thursday, June 20, 2013, and will adjourn at approximately 4:00 p.m.

SUPPLEMENTARY INFORMATION: The meeting will take place at the U.S. Department of Labor, Frances Perkins Building, 200 Constitution Avenue NW., Washington, DC 20210, Executive Room, C5515. Members of the public are encouraged to arrive early to allow for security clearance into the Frances Perkins Building.

Security Instructions: Meeting participants should use the visitors' entrance to access the Frances Perkins Building, one block north of Constitution Avenue at 3rd and C Streets NW. For security purposes meeting participants must:

1. Present a valid photo ID to receive a visitor badge.

2. Know the name of the event being attending: the meeting event is the Advisory Committee on Veterans' Employment, Training and Employer Outreach (ACVETEO).

3. Visitor badges are issued by the security officer at the Visitor Entrance located at 3rd and C Streets NW. When receiving a visitor badge, the security officer will retain the visitor's photo ID until the visitor badge is returned to the security desk.

4. Laptops and other electronic devices may be inspected and logged for identification purposes.

5. Due to limited parking options, Metro rail is the easiest way to access the Frances Perkins Building.

Notice of Intent to Attend Meeting: All meeting participants are being asked to submit a notice of intent to attend by Wednesday, June 5, 2013, via email to Mr. Timothy Green at *green.timothy.a@dol.gov*, subject line "June 2013 ACVETEO Meeting." The meeting site is accessible to individuals with disabilities. If individuals have special needs and/or disabilities that will require special accommodations, please contact Mr. Timothy Green on (202) 693– 4723 or via email at *green.timothy.a@dol.gov* no later than Wednesday, June 5, 2013. Any member of the public who wishes to file written data or comments pertaining to the agenda may do so by sending the data or comments to Mr. Timothy Green via email at *green.timothy.a@dol.gov*, subject line "June 2013 ACVETEO Meeting," or submitting to the Office of Strategic Outreach, Veterans' Employment and Training Service, U.S. Department of Labor, Room S–1325, 200 Constitution Avenue NW., Washington, DC 20210. Such submissions will be included in the record for the meeting if received by Wednesday, June 5, 2013.

FOR FURTHER INFORMATION CONTACT: The Designated Federal Official, Mr. Timothy Green, Director, Office of Strategic Outreach, Veterans' Employment and Training Service, U.S. Department of Labor, 200 Constitution Avenue NW., Room S–1325, Washington, DC 20210, Telephone: (202) 693–2796 (this is not a toll-free number).

Meeting Agenda

9:30 a.m.
- Welcome and Introductions
- Mr. Paul Bucha, Chariman ACVETEO
- Mr. Keith Kelly, Assistant Secretary for Veterans' Employment and Training

10:00 a.m.
- Administrative Business
- Mr. Timothy Green, Designated Federal Officer (DFO)

10:15 a.m.
- DOL VETS Initiatives and Veteran Employment Challenges TBD

11:00 a.m.
- Brief on Connecticut Public Broadcasting Network Learning Lab
- Mr. Paul Bucha

11:30 a.m. Brief on Gulf Transport Veteran Hiring Initiative
Mr. Paul Bucha
12:00 p.m.
Lunch
1:15 p.m.
Sub-Committee Assignments
—Employer Outreach
—Focus Populations
—Women Veterans
—Disabled Veterans
—Guard and Reserve
2:30 p.m.
Way Forward and Sub-Committee Homework
3:00 p.m.
Public Forum
4:00 p.m.
Adjorn

Signed at Washington, DC, this 9th day of May 2013.

Keith Kelly,

Assistant Secretary for Veterans' Employment and Training.

[FR Doc. 2013–11486 Filed 5–14–13; 8:45 am]

BILLING CODE 4510–79–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes: Call for Nominations

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Call for Nominations.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is advertising for nominations for the position of Agreement State representative on the Advisory Committee on the Medical Uses of Isotopes (ACMUI).

DATES: Nominations are due on or before July 15, 2013.

Nomination Process: Submit an electronic copy of resume or curriculum vitae to Ms. Sophie Holiday, *sophie.holiday@nrc.gov*. Please ensure that the resume or curriculum vitae includes the following information, if applicable: education, certification, current state regulatory experience, professional association membership, committee membership activities, and leadership activities.

FOR FURTHER INFORMATION CONTACT: Ms. Sophie Holiday, U.S. Nuclear Regulatory Commission, Office of Federal and State Materials and Environmental Management Programs; (301) 415–7865; *sophie.holiday@nrc.gov*.

SUPPLEMENTARY INFORMATION: The ACMUI advises NRC on policy and technical issues that arise in the regulation of the medical use of byproduct material. Responsibilities include providing comments on changes to NRC regulations and guidance; evaluating certain non-routine uses of byproduct material; providing technical assistance in licensing, inspection, and enforcement cases; and bringing key issues to the attention of NRC staff, for appropriate action.

ACMUI members possess the medical and technical skills needed to address evolving issues. The current membership is comprised of the following professionals: (a) Nuclear medicine physician; (b) nuclear cardiologist; (c) medical physicist in nuclear medicine unsealed byproduct material; (d) therapy physicist; (e) radiation safety officer; (f) nuclear pharmacist; (g) two radiation oncologists; (h) patients' rights advocate; (i) Food and Drug Administration representative; (j) State representative; and (k) health care administrator.

NRC is inviting nominations for the Agreement State representative position on the ACMUI. The individual currently occupying this position will resign on May 24, 2013. Committee members currently serve a four-year term and may be considered for reappointment to an additional term.

Nominees must be U.S. citizens and be able to devote approximately 160 hours per year to Committee business. Members who are not Federal employees are compensated for their service. In addition, members are reimbursed travel (including per-diem in lieu of subsistence) and are reimbursed secretarial and correspondence expenses. Full-time Federal employees are reimbursed travel expenses only.

Security Background Check: The selected nominee will undergo a thorough security background check. Security paperwork may take the nominee several weeks to complete. Nominees will also be required to complete a financial disclosure statement to avoid conflicts of interest.

Dated at Rockville, Maryland, this May 10, 2013.

For the U.S. Nuclear Regulatory Commission.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 2013–11546 Filed 5–14–13; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: U.S. Office of Personnel Management (OPM).

ACTION: Notice.

SUMMARY: This notice identifies Schedule A, B, and C appointing authorities applicable to a single agency that were established or revoked from March 1, 2013, to March 31, 2013.

FOR FURTHER INFORMATION CONTACT: Senior Executive Resources Services, Senior Executive Service and Performance Management, Employee Services, 202–606–2246.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 213.103, Schedule A, B, and C appointing authorities available for use by all agencies are codified in the Code of Federal Regulations (CFR). Schedule A, B, and C appointing authorities applicable to a single agency are not codified in the CFR, but the Office of Personnel Management (OPM) publishes a notice of agency-specific authorities established or revoked each month in the **Federal Register** at *www.gpo.gov/fdsys/*. OPM also publishes annually a consolidated listing of all Schedule A, B, and C appointing authorities current as of June 30 as a notice in the **Federal Register**.

Schedule A

No Schedule A authorities to report during March 2013.

Schedule B

No Schedule B authorities to report during March 2013.

Schedule C

The following Schedule C appointing authorities were approved during March 2013.

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF COMMERCE ..	Office of Policy and Strategic Planning.	Deputy Director, Office of Policy and Strategic Planning.	DC130030	3/18/2013
	Office of the Chief of Staff	Protocol Officer and Advance Assistant.	DC130034	3/22/2013

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF DEFENSE	Washington Headquarters Services.	Deputy White House Liaison	DD130048	3/22/2013
	Office of the Under Secretary of Defense (Acquisition, Technology, and Logistics).	Special Assistant (Manufacturing and Industrial Base Policy).	DD130044	3/29/2013
DEPARTMENT OF EDUCATION	Office of the Secretary	Confidential Assistant	DB130017	3/5/2013
	Office of Legislation and Congressional Affairs.	Special Assistant	DB130021	3/5/2013
	Office of the Deputy Secretary	Special Assistant	DB130023	3/14/2013
	Office of the Secretary	Director, Scheduling and Advance	DB130012	3/27/2013
DEPARTMENT OF ENERGY	Office of Public Affairs	Press Secretary	DE130021	3/7/2013
	Office of Public Affairs	Deputy Press Secretary for Clean Energy.	DE130022	3/21/2013
DEPARTMENT OF HEALTH AND HUMAN SERVICES.	Office of the General Counsel	Special Assistant	DH130026	3/5/2013
	Office of the Assistant Secretary for Preparedness and Response.	Confidential Assistant	DH130049	3/18/2013
DEPARTMENT OF THE INTERIOR.	Office of Congressional and Legislative Affairs.	Deputy Director for Congressional and Legislative Affairs.	DI130011	3/4/2013
	Secretary's Immediate Office	Press Assistant	DI130014	3/21/2013
DEPARTMENT OF LABOR	Office of the Secretary	Executive Assistant	DL130012	3/13/2013
	Office of Congressional and Intergovernmental Affairs.	Senior Legislative Officer	DL130014	3/15/2013
	Office of the Secretary	Deputy Director of Scheduling and Advance.	DL130013	3/22/2013
OFFICE OF NATIONAL DRUG CONTROL POLICY.	Office of Public Affairs	Special Assistant for Strategic Communications.	QQ130001	3/26/2013
SMALL BUSINESS ADMINISTRATION.	Office of the Administrator	Policy Advisor	SB130008	3/8/2013
	Office of Field Operations	Special Advisor for Field Operations.	SB130009	3/29/2013
DEPARTMENT OF STATE	Bureau of Public Affairs	Deputy Assistant Secretary	DS130051	3/7/2013
	Bureau of International Organizational Affairs.	Senior Advisor	DS130025	3/26/2013
	Foreign Policy Planning Staff	Senior Advisor	DS130056	3/26/2013
DEPARTMENT OF THE TREASURY.	Assistant Secretary for Financial Institutions.	Policy Advisor	DY130023	3/7/2013
	Assistant Secretary (Public Affairs)	Media Affairs Specialist	DY130025	3/21/2013
	Secretary of the Treasury	Special Assistant (2)	DY130027	3/21/2013
			DY130026	3/25/2013
DEPARTMENT OF VETERANS AFFAIRS.	Office of the Assistant Secretary for Public and Intergovernmental Affairs.	Special Assistant	DV130025	3/12/2013

The following Schedule C appointing authorities were revoked during March 2013.

Agency	Organization	Position title	Authorization No.	Vacate date
DEPARTMENT OF AGRICULTURE.	Office of the General Counsel	Senior Counselor	DA110009	3/23/2013
DEPARTMENT OF COMMERCE	Office of the Assistant Secretary for Import Administration.	Special Advisor	DC100122	3/1/2013
	Office of the Under Secretary	Special Assistant (2)	DC110112	3/13/2013
			DC110121	3/15/2013
	Office of Business Liaison	Senior Advisor	DC110028	3/29/2013
	Office of the Assistant Secretary for Economic Development.	Director, Office of Innovation and Entrepreneurship.	DC120012	3/29/2013
DEPARTMENT OF EDUCATION	Office of Communications and Outreach.	Confidential Assistant	DB110043	3/9/2013
	Office of Legislation and Congressional Affairs.	Director, Strategic Outreach	DB120020	3/9/2013
	Office of the Deputy Secretary	Special Assistant	DB110058	3/22/2013
DEPARTMENT OF HOMELAND SECURITY.	Office of the Assistant Secretary for Policy.	Director	DM120007	3/1/2013
	Office of the Executive Secretary for Operations and Administration.	Senior Liaison Officer	DM090279	3/9/2013

Agency	Organization	Position title	Authorization No.	Vacate date
	Office of the Assistant Secretary for Policy.	Deputy Executive Director	DM110275	3/22/2013
DEPARTMENT OF JUSTICE	Executive Office for United States Attorneys.	Counsel	DJ090280	3/9/2013
	Office of Legislative Affairs	Attorney Advisor	DJ100171	3/9/2013
DEPARTMENT OF LABOR	Office of the Secretary	Staff Assistant	DL120013	3/23/2013
DEPARTMENT OF STATE	Office of the Under Secretary for Management.	Staff Assistant	DS090146	3/8/2013
	Foreign Policy Planning Staff	Staff Assistant	DS090250	3/8/2013
	Bureau of Economic and Business Affairs.	Special Assistant	DS110053	3/21/2013
DEPARTMENT OF THE INTERIOR.	Secretary's Immediate Office	Special Assistant	DI090144	3/15/2013
DEPARTMENT OF TRANSPORTATION.	Secretary	Scheduler	DT110056	3/3/2013
	Secretary	Associate Director for Scheduling and Advance.	DT110055	3/3/2013
DEPARTMENT OF VETERANS AFFAIRS.	Office of the Assistant Secretary for Congressional and Legislative Affairs.	Special Assistant	DV110084	3/23/2013
ENVIRONMENTAL PROTECTION AGENCY.	Office of the Associate Administrator for Congressional and Intergovernmental Relations.	Deputy Associate Administrator for Intergovernmental Relations.	EP090074	3/22/2013
OFFICE OF THE SECRETARY OF DEFENSE.	Washington Headquarters Services.	Defense Fellow (2)	DD130043 DD110048	3/30/2013 3/31/2013

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218.

U.S. Office of Personnel Management.

Elaine Kaplan,

Acting Director.

[FR Doc. 2013–11446 Filed 5–14–13; 8:45 am]

BILLING CODE 6325–39–P

OFFICE OF PERSONNEL MANAGEMENT

National Council on Federal Labor-Management Relations Meeting

AGENCY: Office of Personnel Management.

ACTION: Notice of meeting.

SUMMARY: The National Council on Federal Labor-Management Relations plans to meet on Wednesday, July 17, 2013. The meeting will start at 10:00 a.m. EDT and will be held in the Main Conference Room (3102), U.S. Department of Justice, Office of Justice Programs, 810 Seventh Street NW., Washington, DC 20531. Visitors can enter on either the 7th Street or 9th Street side of the building. Interested parties should consult the Council Web site at *www.lmrcouncil.gov* for the latest information on Council activities, including changes in meeting dates.

FOR FURTHER INFORMATION CONTACT: Tim Curry, Deputy Associate Director for Partnership and Labor Relations, Office of Personnel Management, 1900 E Street NW., Room 7H28, Washington, DC 20415. Phone (202) 606–2930 or email at *PLR@opm.gov.*

SUPPLEMENTARY INFORMATION: The Council is an advisory body composed of representatives of Federal employee organizations, Federal management organizations, and senior government officials. The Council was established by Executive Order 13522, entitled, "Creating Labor-Management Forums to Improve Delivery of Government Services," which was signed by the President on December 9, 2009. Along with its other responsibilities, the Council assists in the implementation of Labor Management Forums throughout the government and makes recommendations to the President on innovative ways to improve delivery of services and products to the public while cutting costs and advancing employee interests. The Council is co-chaired by the Director of the Office of Personnel Management and the Deputy Director for Management of the Office of Management and Budget.

At its meetings, the Council will continue its work in promoting cooperative and productive relationships between labor and management in the executive branch, by carrying out the responsibilities and functions listed in Section 1(b) of the Executive Order. The meetings are open to the public. Please contact the Office of Personnel Management at the address shown below if you wish to present material to the Council at the meeting. The manner and time prescribed for presentations may be limited, depending upon the number of parties that express interest in presenting information.

For the National Council.

Elaine Kaplan,

Acting Director.

[FR Doc. 2013–11445 Filed 5–14–13; 8:45 am]

BILLING CODE 6325–39–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69550; File No. SR-Phlx-2013–46]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, Regarding Complex Order PIXL

May 9, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4[2] thereunder, notice is hereby given that on April 30, 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. On May 8, 2013, the Exchange filed Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposal to amend Rule 1080 (Phlx XL and Phlx XL II) to accommodate Complex Orders in PIXL.[3] The Exchange requests that the Commission approve the proposed rule change on an accelerated basis.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com/NASDAQOMXPHLX/Filings/*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend Rule 1080 to accommodate Complex Orders in PIXL. This proposal would allow Complex Orders in the Exchange's price-improving electronic auction, PIXL, similarly to other options exchanges that currently allow complex orders in their price-improving electronic auctions.[4]

Background

Current PIXL

The PIXL mechanism is a process whereby members electronically submit orders they represent as agent against principal interest or other interest that they represent as agent. The submitted orders are stopped at a price and are subsequently entered into an auction seeking price improvement. Currently, the PIXL mechanism accepts only simple orders.

An Exchange member may initiate a PIXL Auction ("Initiating Member") by submitting a PIXL Order in one of three ways: [5]

(1) The Initiating Member could submit a PIXL Order specifying a single price at which it seeks to execute the PIXL Order (a "stop price");

(2) An Initiating Member could submit a PIXL Order specifying that it is willing to automatically match as principal or as agent on behalf of an Initiating Order, the price and size of all trading interest, and responses to the PIXL Auction Notification ("PAN") (known as "auto-match"), in which case the PIXL Order will be stopped at the National Best Bid/Offer ("NBBO") on the Initiating Order side of the market (if 50 contracts or greater) or, if less than 50 contracts, the better of: (i) The Phlx Best Bid/Offer ("PBBO") price on the opposite side of the market from the PIXL Order improved by at least one minimum price improvement increment, or (ii) the PIXL Order's limit price (if the order is a limit order), provided in either case that certain circumstances are met and that such price is at least one increment better than the limit of an order on the book on the same side as the PIXL Order; or

(3) An Initiating Member could submit a PIXL Order specifying that it is willing to either: (i) Stop the entire order at a single stop price and auto-match PAN responses, as described below, together with trading interest, at a price or prices that improve the stop price to a specified price above or below which the Initiating Member will not trade (a "Not Worse Than" or "NWT" price); (ii) stop the entire order at a single stop price and auto-match all PAN responses and trading interest at or better than the stop price; or (iii) stop the entire order at the NBBO on the Initiating Order side (if 50 contracts or greater) or the better of: (A) The PBBO price on the opposite side of the market from the PIXL Order improved by one minimum price improvement increment, or (B) the PIXL Order's limit price (if the order is a limit order) on the Initiating Order side (if for less than 50 contracts), and auto-match PAN responses and trading interest at a price or prices that improve the stop price up to the NWT price.[6] In all cases, if the PBBO on the same side of the market as the PIXL Order represents a limit order on the book, the stop price must be at least one minimum price improvement increment better than the booked limit order's limit price.

After the PIXL Order is entered, a PAN is broadcast and a one-second blind Auction ensues. Anyone may respond to the PAN notification. At the conclusion of the Auction, the PIXL Order will be allocated at the best price(s) among quotes, orders, and PAN responses.

Once the Initiating Member has submitted a PIXL Order for processing, such PIXL Order may not be modified or cancelled, and a member submitting the order has no ability to control the timing of the execution. The execution is carried out by the Exchange's Phlx XL automated options trading system and pricing is determined solely by the other orders and quotes that are present in the Phlx XL system at the time the Auction ends.

Current Complex Orders

A Complex Order is any order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying

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[3] The Exchange adopted PIXL in October 2010 as a price-improvement mechanism that is a component of the Exchange's fully automated options trading system, Phlx XL, now known as XL II. *See* Securities Exchange Act Release No. 63027 (October 1, 2010), 75 FR 62160 (October 7, 2010) (SR–Phlx–2010–108) (order granting approval of price improvement system, XL).

Six-legged Complex Orders trade on the Exchange. *See* Securities Exchange Act Release No. 63777 (January 26, 2011), 76 FR 5630 (February 1, 2011) (SR–Phlx–2010–157) (approval order allowing six-legged Complex Orders); and Commentary .08 to Rule 1080. This proposal would enable Complex Orders to trade on PIXL.

[4] *See* Securities Exchange Act Release No. 64805 (July 5, 2011), 76 FR 40758 (July 11, 2011) (SR–ISE–2011–30) (order granting approval of a proposed rule change relating to Complex Orders in ISE's Price Improvement Mechanism, PIM). *See also* Securities Exchange Act Release No. 66235 (January 25, 2012), 77 FR 4844 (January 31, 2012) (SR–CBOE–2011–114) (order granting approval of a proposed rule change relating to Complex Order processing in CBOE's Hybrid 3.0 classes).

[5] Three components of the PIXL system were approved by the Commission on a pilot basis: (1) Paragraphs (n)(i)(A)(2) and (n)(i)(B)(2) of Rule 1080, relating to stopping the entire PIXL Order where the order is for a size less than 50 contracts; (2) paragraphs (n)(ii)(B)(4) and (n)(ii)(D) of Rule 1080, relating to the early conclusion of the PIXL Auction; and (3) paragraph (n)(vii) of Rule 1080, stating that there shall be no minimum size requirement of orders entered into PIXL (collectively, the "pilots"). *See* supra note 3. The pilots were extended for a pilot period expiring July 18, 2013. All of the pilots are applicable to Complex PIXL. The paragraph (n)(i)(A)(2) and (n)(i)(B)(2) pilot is, for Complex Orders of less than 50 contracts in size, in new (n)(i)(C). Paragraph (n)(ii)(B)(4) is re-numbered as (n)(ii)(B)(5) and, along with paragraph (n)(ii)(D), the early conclusion of the PIXL Auction pilot is applicable to Complex PIXL Orders. Proposed (n)(ii)(D) states, regarding Complex PIXL Auctions, that an unrelated market or marketable limit Complex Order on the opposite side of the market from the Complex PIXL Order, as well as orders for the individual components of the Complex Order received during the Auction, will not cause the Auction to end early and will execute against interest outside of the Auction. If contracts remain from such unrelated order at the time the Auction ends, they will be considered for participation in the order allocation process described in sub-paragraph (E) below.

[6] The PIXL 50 contract distinction is applicable to Complex Orders entered into PIXL.

security, priced at a net debit or credit based on the relative prices of the individual components, for the same account, for the purpose of executing a particular investment strategy. A Complex Order may also be a stock-option order, which is an order to buy or sell a stated number of units of an underlying stock or exchange-traded fund ("ETF") coupled with the purchase or sale of options contract(s). Complex Orders on Phlx are discussed in Commentary .08 to Rule 1080.[7] In particular, Commentary .08 governs the trading of Complex Orders on the Phlx's electronic options trading platform, Phlx XL II, to, among other things: (i) Permit Complex Orders with up to six components, including the underlying stock or ETF; (ii) establish a Do Not Auction ("DNA") designation for Complex Orders; (iii) add a definition of conforming ratio;[8] (iv) provide priority rules for Complex Orders traded on Phlx XL II; and (v) provide for the communication of the stock or ETF component of a Complex Order by the Exchange to NASDAQ Options Services LLC ("NOS"), the Phlx's affiliated broker-dealer, for execution.

Currently, PIXL does not accommodate auctions for Complex Orders as is allowed on other options exchanges that have price-improving electronic auctions like PIXL.[9] However, Complex Orders are becoming an increasingly important segment of options trading. This proposal allows Complex Orders of up to six legs, as defined in Commentary .08 of Rule 1080, to be entered into the Exchange's PIXL Auction, and proposes changes to Rule 1080 to facilitate this process without making any modifications to the PIXL process in place today for orders which are not Complex Orders, or to the Complex Order rules.[10]

The Proposal

Changes to Rule 1080(n)—PIXL

The Exchange proposes to enhance PIXL so that Complex Orders may be entered into PIXL and may have the benefit of price improvement functionality (known as "Complex PIXL").

The Exchange intends to change PIXL, which is codified in Rule 1080(n), only to the extent needed to accommodate Complex PIXL Orders. The Exchange does so by exempting Complex PIXL Orders from those sections of PIXL which are not wholly applicable to Complex Orders. Specifically, Complex Orders are exempted from the following portions of subsection (n) of Rule 1080: (i) The current PIXL auction eligibility requirements for the account of a public customer and not a public customer that differentiate whether a PIXL Order is for a size of less than 50 contracts or 50 contracts or more;[11] (ii) the current procedure for initiating a PAN Auction, how an Initiating Member must mark the PIXL Order and what the member must specify;[12] (iii) the current minimum price increment for PAN responses and for an Initiating Member's stop price and/or NWT price;[13] (iv) the current rejection of PAN responses that are not equal to or better than the NBBO at the time of receipt of the PAN response;[14] (v) the current allocation process whereby after public customer interest at a particular price level has been satisfied, remaining contracts will be allocated among all Exchange quotes, orders and PAN responses;[15] (vi) the current process whereby if there are PAN responses that cross the then-existing NBBO (provided such NBBO is not crossed) at the time of the conclusion of the Auction, such PAN responses will be executed, if possible, at their limit price(s);[16] (vii) the current process whereby if the PIXL Auction price is the same as that of an order on the limit order book on the same side of the market as the PIXL Order, the PIXL Order may only be executed at a price that is at least one minimum price improvement increment better than the resting order's limit price or, if such resting order's limit price crosses the stop price, then the entire PIXL Order will trade at the stop price with all better priced interest being considered for execution at the stop price;[17] and (viii) that currently the execution price for a PIXL Order for the account of a public customer paired with an order for the account of a public customer must be expressed in the quoting increment applicable to the affected series, and that such an execution may not trade through the NBBO or at the same price as any resting customer order.[18]

The Exchange is proposing several rule provisions in respect of Complex Orders so that they can participate in PIXL Auctions. First, the Exchange proposes new Rule 1080(n)(i)(C) regarding stopping the entire Complex Order when submitting such order into

[7] For the full definition of Complex Order, *see* Commentary .08(a)(i) to Rule 1080. *See also* Securities Exchange Act Release No. 63777 (January 26, 2011), 76 FR 5630 (February 1, 2011) (SR–Phlx–2010–157) (order granting approval of a proposed rule change relating to Complex Orders in Phlx Commentary .08 to Rule 1080 and establishing, among other things, six-legged Complex Orders) (the "Complex Order filing"). Prior to the Complex Order filing, a Complex Order could be composed of two option legs and could not have a stock component.

Six other options exchanges have rules that provide for the trading of complex orders. *See* C2 Rule 6.13; CBOE Rules 6.42, 6.45, 6.53C; ISE Rule 722; NYSE Arca Rules 6.62(e), 6.91; NYSE MKT Rules 900.3NY(e), 963NY, 980NY.

[8] The Exchange proposes to add language to Rule 1080(n)(i)(C) to codify the principle that Complex Orders consisting of a ratio other than a conforming ratio will not be accepted. *See* footnote 20 in Securities Exchange Act Release No. 63509 (December 9, 2010), 75 FR 78320 (December 15, 2010) (SR–Phlx–2010–157) (notice of Complex Order filing).

[9] *See* Securities Exchange Act Release No. 64805 (July 5, 2011), 76 FR 40758 (July 11, 2011) (SR–ISE–2011–30) (order granting approval of a proposed rule change relating to Complex Orders in ISE's Price Improvement Mechanism, PIM). *See also* Securities Exchange Act Release No. 66235 (January 25, 2012), 77 FR 4844 (January 31, 2012) (SR–CBOE–2011–114) (order granting approval of a proposed rule change relating to Complex Order processing in CBOE's Hybrid 3.0 classes).

[10] The Exchange notes that, as in many filings, it proposes technical housecleaning changes that are described below.

[11] Rule 1080(n)(i)(A) and (B). The analogous provision for Complex PILX Orders is in (n)(i)(C), as described below.

[12] Rule 1080(n)(ii)(A). Regarding initiation of a PIXL Auction, the Exchange is adding (n)(ii)(A)(2).

[13] Rule 1080(n)(ii)(A)(6) (re-numbered as (n)(ii)(A)(7)). Regarding the minimum price increment for PAN responses and for an Initiating Member's stop price and/or for an NWT price in the case of a Complex Order ($0.01), the Exchange is adding(n)(ii)(A)(7)(b).

[14] Rule 1080(n)(ii)(A)(9). The Exchange proposes new language in subsection (9) stating that a Complex Order PAN response must be equal to or better than the cPBBO, as defined in Commentary .08(a) of this Rule 1080 at the time of receipt of the PAN response. PAN responses may be modified or cancelled during the Auction. A PAN response (except if it is a Complex Order) submitted with a price that is outside the NBBO will be rejected. A Complex Order PAN response submitted with a price that is outside the cPBBO will be rejected. A PAN or Complex Order PAN response which is inferior to the stop price of the PIXL order will be rejected.

Commentary .08(a)(iv) defines the term cPBBO as the best net debit or credit price for a Complex Order Strategy based on the PBBO for the individual options components of such Complex Order Strategy, and, where the underlying security is a component of the Complex Order, the National Best Bid and/or Offer for the underlying security.

[15] Rule 1080(n)(ii)(E)(2)(a), (b), and (c). Regarding the PIXL Order allocation process, the Exchange is adding or modifying (n)(ii)(E)(2)(d), (e), (f), and (g).

[16] Rule 1080(n)(ii)(F). The Exchange proposes new language adding the alternative that if there are Complex Order PAN responses that cross the then-existing cPBBO at the time of the conclusion of the Auction, such PAN responses will be executed, if possible, at their limit price(s). The Exchange believes that this behavior is, at best, highly unlikely as participants will cancel PAN responses when better priced interest that they could trade against is present in the marketplace.

[17] Rule 1080(n)(ii)(G). Regarding an Auction price on the limit order book on the same side of the market as the Complex PIXL Order, the Exchange is adding 1080(n)(ii)(H).

[18] Proposed Rule 1080(n)(vi). The Exchange clarifies that the subsection applies to the execution price for a PIXL Order and proposes new language stating that the execution price for a Complex Order PIXL may be in $0.01 increments and may not trade at a price equal to or through the cPBBO or at the same price as a resting customer Complex Order.

PIXL. Specifically, new sub-paragraph (C) states that if the PIXL Order is a Complex Order and of a conforming ratio, as defined in Commentary .08(a)(i) and (a)(ix) to Rule 1080, the Initiating Member must stop the entire PIXL order at a price that is better than the best net price (debit or credit) (i) available on the Complex Order book regardless of the Complex Order book size; and (ii) achievable from the best Phlx bids and offers for the individual options (an "improved net price"), provided in either case that such price is equal to or better than the PIXL Order's limit price.[19] Complex Orders consisting of a ratio other than a conforming ratio will not be accepted. New sub-paragraph (C) shall apply to all Complex Orders submitted into PIXL and, where applied to Complex Orders where the smallest leg is less than 50 contracts in size, shall be effective for a pilot period scheduled to expire July 18, 2013. New sub-paragraph (C) maintains the core complex order spread priority principal which stipulates that a Complex Order may be executed at a total credit or debit price with priority over individual bids or offers established in the marketplace (including customers) that are not better than the bids or offers comprising such total credit or debit, provided that at least one option leg is executed at a better price than the established bid or offer for that option contracts and no option leg is executed at a price outside of the established bid or offer for that option contract.[20] New sub-paragraph (C) does so by requiring a Complex Order submitted into PIXL to be stopped at a net debit/credit price which improves upon the stated markets present for the individual components of the Complex Order. By definition, requiring a Complex Order to be stopped at a net debit/credit price which improves upon the stated markets present for the individual components of the Complex Order ensures that at least one option leg will be executed at a better price than the established bid or offer for such leg. For example, a Complex Order that is of a conforming ratio to buy one of option A with a PBBO market of $1.00 bid, offered at $1.20, and sell one of option B with a PBBO market of $0.50 bid, offered at $0.60, would need to be stopped by the Initiating Member at a net price better than the calculated cPBBO market of $0.40 bid, offered at $0.70.[21] If in this same example there was also a resting Complex Order to buy one of option A and sell one of option B on Phlx for a net debit price of $0.50, the Initiating Member would need to stop the Complex Order entered into PIXL at a net price better than $0.50 bid and the calculated net best offer (cPBBO) of $0.70.

Second, the Exchange is adding proposed new Rule (n)(ii)(A)(2) to explain the process for initiating a PIXL Complex Auction, which is similar to initiating a PIXL Auction today. Specifically, proposed new subsection (2) language states that to initiate the PIXL Complex Order Auction, the Initiating Member must mark the PIXL Order for Auction processing, and specify either: (a) A single price at which it seeks to execute the PIXL Order (a "stop price"); or (b) that it is willing to either: (i) Stop the entire order at a single stop price and auto-match PAN responses and trading interest at a price or prices that improve the stop price to a specified price (a "Not Worse Than" or "NWT" price); or (ii) stop the entire order at a single stop price and auto-match all PAN responses and trading interest at or better than the stop price. Once the Initiating Member has submitted a Complex Order into PIXL for processing pursuant to this subparagraph, such order may not be modified or cancelled. Under any of the circumstances described in sub-paragraphs (a)–(b) of subsection (2), the stop price or NWT price may be improved to the benefit of the PIXL Order during the Auction, but may not be cancelled.

The procedure set forth in new Rule 1080(n)(ii)(A)(2) for Complex Orders is similar to the procedure set forth in Rule 1080(n)(ii)(A)(1) for initiating a PIXL Auction for orders which are not complex. However, new Rule 1080(n)(ii)(A)(2) does not allow for Initiating Members to enter Complex Orders into PIXL and specify, without stipulating a specific stop price, that they are willing to automatically match as principal or as agent on behalf of an Initiating Order the price and size of all PAN responses, and trading interest. Initiating Members entering orders into PIXL which are not Complex Orders may indicate that they are willing to stop the PIXL Order at the NBBO on the Initiating Order side (if 50 contracts or more) or the PBBO on the opposite side of the market from the PIXL Order improved by one minimum price improvement increment (if the PIXL Order is for less than 50 contracts), provided such price is no worse than the NBBO, by submitting the order with a market price and a NWT market price.

When submitted in this manner, the trading system stops the PIXL order at a price based on the disseminated markets in that series at the time of order receipt, in accordance with PIXL rules stated above. The Exchange is not offering this particular functionality for Complex Orders in order to avoid stopping an order at a net debit/credit price which may be unexpected by the Initiating Member due to the fact that there are multiple legs in Complex Orders and prices may change rapidly. Requiring the Initiating Member to use an exact limit price as the stop price, yet allow the use of a NWT market price, will ensure that the stop price will meet the Initiating Member's expectations and still allow the Initiating Member to automatically match other interest if desired.

Third, the Exchange is proposing new language in Rule 1080(n)(ii)(B)(3) to add a Complex Order PIXL alternative for concluding a Complex Order PIXL Auction. Specifically, new subsection (3) states that a Complex Order PIXL Auction will conclude any time the cPBBO or the Complex Order book crosses the PIXL Order stop price on the same side of the market as the PIXL Order (defined for these purposes as a "Complex PIXL Order" or, as the context requires, a "PIXL Order").[22] This language introduces proposed new Rule 1080(n)(ii)(B)(2) [sic] for Complex Order PIXL Auctions that is similar to what is available for PIXL Auctions today. Today, PIXL Auctions end at the earlier of (i) the end of the Auction period, (ii) any time there is a trading halt on the Exchange in the affected series, or (iii) any time the PBBO crosses the PIXL order stop price on the same side as the PIXL Order. The PBBO includes both orders and quotes on the Exchange. Complex PIXL Auctions will also conclude (i) at the end of the Auction period or (ii) any time there is a trading halt on the Exchange in the affected series as stipulated in the rule today. In addition, the language of proposed new Rule 1080(n)(ii)(B)(3) is being added to explicitly state that the end of a Complex PIXL Auction can also occur either when the cPBBO or the Complex Order book crosses the PIXL

[19] Subsection (n)(i)(D) (re-numbered from current subsection (C)) indicates under what circumstances PIXL Orders are not eligible to initiate an Auction and will be rejected. Reference to proposed new subsection (C) is added to subsection (D) as re-numbered.

[20] The complex order spread priority principal in respect of Complex Orders is set forth in Rule 1080, Commentary .08(c)(iii).

[21] $0.40 bid = $1.00 bid of A less $0.60 offer of B; and $0.70 offer = $1.20 offer of A less $0.50 bid of B.

[22] The Exchange also clarifies the end of the Auction alternative in Rule 1080(n)(ii)(B)(2) to state that, for a PIXL Auction (except if it is a Complex Order), any time the PBBO crosses the PIXL Order stop price on the same side of the market as the PIXL Order.

Order stop price on the same side of the market as the PIXL Order.

Fourth, the Exchange is proposing new language in Rule 1080(n)(ii)(C) to add a Complex Order PIXL alternative for execution when a Complex PIXL Auction ended due to the cPBBO or the Complex Order book crossing the Complex Order PIXL stop price on the same side as the Complex PIXL Order. Specifically, new language in subsection (C)(2) states that at the conclusion of the PIXL Auction, in the case of the cPBBO or the Complex Order book crossing the Complex PIXL Order stop price on the same side as the Complex PIXL Order, the entire Complex PIXL Order will be executed at the stop price against executable PAN responses and executable Complex Order interest. For example, if a Complex PIXL Auction is in progress where the Complex PIXL Order is a buy order stopped at $0.60, if either the cPBBO (calculated Phlx Best Bid) moves to be $0.61 bid or better, or if a Complex Order is entered onto the Phlx book with a bid price of $0.61 or more, the Complex PIXL Auction will be terminated as set forth in proposed Rule 1080(n)(ii)(B)(3). In such case, any complex sell interest, both Complex Orders and PAN responses, at a price of $0.60 or lower will be considered for trade against the Complex PIXL Order at $0.60.

The execution process described above for Complex PIXL Orders is simpler than the process in place for PIXL Auctions terminated due to the PBBO crossing the PIXL Order stop price on the same side of the market as the PIXL Order. Currently, when a PIXL Auction is terminated due to the PBBO crossing the PIXL Order stop price on the same side of the market as the PIXL Order, the PIXL Order is executed at best response prices or, if the stop price is the best price in the Auction, the PIXL Order is executed at the stop price, unless the best response price is equal to the price of a limit order resting on the Phlx book on the same side of the market as the PIXL Order, in which case the PIXL Order will be executed against that response (but at a price that is at least one minimum price improvement increment better than the price of such limit order).[23] For example, assume a PIXL Order to buy 20 contracts is stopped at a price of $0.60 when the market is $0.40 bid, offered at $0.70. Additionally, assume a PAN response is received to sell 10 contracts at $0.55 and an order is submitted and entered onto the Phlx book to sell 10 contracts at $0.60. If a buy order (or quote) with a limit of $0.65 is entered into the Phlx XL system, the buy order (or quote) will trade immediately against the 10 contract order offered at $0.60. The buy order (or quote) will not trade against the PAN response offered at $0.55 since it is an Auction response and is only eligible to trade as part of the Auction. Any residual interest of the buy order (or quote) is reflected in the PBBO causing the market to move to $0.65 bid, offered at $0.70, the PIXL Auction is terminated. Provided, in the unlikely event that the PAN response to sell at $0.55 had not been cancelled, the PAN response will trade 10 contracts against the PIXL Order at $0.55 and any residual PIXL Order contracts will trade at $0.60 against the Initiating Order. The Exchange is proposing that when a Complex PIXL Auction is terminated due to either the cPBBO or the Complex Order book crossing the Complex Order PIXL stop price on the same side as the Complex PIXL Order, such order is only executed through the cPBBO and/or the Complex Order book at one price, the stop price.[24] Consider a scenario similar to the stopped PIXL Order example set forth above. Assume that a Complex PIXL Order to buy is stopped at a price of $0.60. The Complex PIXL Order is to buy option A and sell option B, where option A is $0.90 bid, offered at $1.00 and option B is $0.30 bid, offered at $0.40. The individual option markets imply a cPBBO market of $0.50 bid, offered at $0.70. As before, assume a PAN response is received to sell the strategy at $0.55. If the market for option A becomes $1.05 bid, offered at $1.15, the implied (calculated) cPBBO market becomes $0.65 bid, offered at $0.85 causing the Complex PIXL Auction to terminate. As proposed, the PAN response at $0.55 will trade against the Complex PIXL Order at the stop price of $0.60. To trade at $.60, at least one of the option components of the Complex Order will need to be executed at a price which is outside of the current market where cPBBO is $0.65 bid. Since this event may have up to six components, the Exchange believes that limiting the prices trading through the cPBBO and/or the Complex Order book to only the stop price is important. Furthermore, combined with the improbability that responses will still be available which are crossing the cPBBO or the Complex Order book, the Exchange believes the price continuity of this approach is also more rational and fair to all participants. When executing at the stop price, the Initiating Order as well as all better priced PAN responses and Complex Order interest will be considered for trade against the Complex PIXL Order.

Fifth, the Exchange is proposing new language in Rule 1080(n)(ii)(E)(2)(d) regarding allocation of Complex Order PIXL. Specifically, new subsection (2)(d) states that in the case of a Complex Order PIXL, if the Initiating Member selected the single stop price option of the PIXL Auction, PIXL executions will occur at prices that improve the stop price, and then at the stop price with up to 40% of the remaining contracts after public customer complex interest is satisfied being allocated to the Initiating Member at the stop price. If only one other participant matches the stop price, then the Initiating Member may be allocated up to 50% of the contracts remaining after public customer complex interest is satisfied at such price. Complex Orders on the PHLX Complex Order Book, PAN responses, and quotes and orders which comprise the cPBBO at the end of the Auction will be considered for allocation against the Complex PIXL order. Such interest will be allocated in the following order: (i) To public customer Complex Orders and PAN responses in time priority; (ii) to SQT, RSQT, and non-SQT ROT Complex Orders and PAN responses on a size pro-rata basis; (iii) to non-market maker off-floor broker-dealer Complex Orders and PAN responses on a size pro-rata basis, and (iv) to quotes and orders which comprise the cPBBO at the end of the Auction with public customer interest being satisfied first in time priority, then to SQT, RSQT, and non-SQT ROT interest satisfied on a size pro-rata basis, and lastly to non-market maker off-floor broker-dealers on a size pro-rata basis. Thereafter, remaining contracts, if any, shall be allocated to the Initiating Member, after public customer Complex Orders and PAN responses have been satisfied.

For example, a Complex Order to buy one of option A and sell one of option B, 100 times, with a cPBBO of $0.40 bid, $0.70 offer, may be submitted into PIXL by the Initiating Member with a single stop price of $0.60. Assume that during the Auction, Phlx receives the following responses and order interest:

—MM1 responds to sell the strategy 10 times at a price of $0.55
—MM1 responds to sell the strategy 10 times at a price of $0.60
—BD responds to sell the strategy 5 times at a price of $0.60
—Customer Complex Order to sell the strategy 30 times at a price of $0.60
—MM2 responds to sell the strategy 20 times at $0.60.

After all of the aforementioned responses and orders are received,

[23] Rule 1080(n)(ii)(B).

[24] Proposed Rule 1080(n)(ii)(B)(3).

option A of the simple market moves causing the cPBBO to become offered 20 times at $0.55. Option A is quoted in the simple market as $1.00 bid, $1.05 offer, with the $1.05 offer representing a Customer offer. Option B is quoted in the simple market as $0.50 bid, $0.60 offer.

At the end of the Auction, the Complex PIXL Order will be executed 30 times at a price of $0.55. Of those 30 strategies, MM1 will trade 10 and an additional 20 contracts will be traded by legging into the interest that represents the cPBBO, including the Customer offered at $1.05 in Option A. The Complex PIXL Order will then be traded against interest at $0.60. First, the Customer offering the strategy 30 times will be satisfied. Next, the Initiating Member will be allocated 40% of the remaining 40 strategy contracts, i.e. 16 strategy contracts at his stop price of $0.60. The residual 24 strategy contracts will trade against the two market maker responses in a pro-rata fashion with MM1 executing 8 strategy contracts and MM2 executing 16 strategy contracts. The broker dealer offering 5 strategies at $0.60 would not receive any allocation and the response is cancelled back to the participant.

An additional example illustrating the execution algorithm proposed for Complex Order PIXL is as follows. Assume a Complex Order to buy one of option A and sell one of option B, 100 times, with a cPBBO of $0.40 bid, $0.70 offer, may be submitted into PIXL by the Initiating Member with a single stop price of $0.60. Assume that during the Auction, Phlx receives the following responses and order interest:

—MM1 responds to sell the strategy 10 times at a price of $0.55
—MM1 responds to sell the strategy 10 times at a price of $0.60
—BD responds to sell the strategy 5 times at a price of $0.60
—Customer Complex Order to sell the strategy 30 times at a price of $0.60
—MM2 responds to sell the strategy 20 times at $0.60.

After all of the aforementioned responses and orders are received, option A of the simple market moves causing the cPBBO to become offered 20 times at $0.60. Option A is quoted in the simple market as $1.00 bid, $1.10 offer, with the $1.10 offer representing a Customer offer. Option B is quoted in the simple market as $0.50 bid, $0.60 offer.

At the end of the Auction, the Complex PIXL Order will be executed 10 times at a price of $0.55 against MM1. The Complex PIXL Order will then be traded against interest at $0.60. First, the Customer offering the strategy 30 times will be satisfied. Next, the Initiating Member will be allocated 40% of the remaining 60 strategy contracts, i.e. 24 strategy contracts at his stop price of $0.60. The residual 36 strategy contracts will trade against the two market maker responses with MM1 executing 10 strategy contracts and MM2 executing 20 strategy contracts. The broker dealer offering 5 strategies at $0.60 would then be executed. The last 1 contract would be traded against the cPBBO interest with the Customer offering Option A at $1.10 receiving priority over any other interest offered at that price.

Similarly to PIXL, all interest in the Phlx system at the end of a Complex PIXL auction will be considered for execution against the Complex PIXL Order. Interest will be traded first based on the prices available at the end of the Auction. At all prices, other than the final price point, all interest, including Complex Orders, PAN response, and interest comprising the cPBBO will be fully satisfied. At the final price point, the Initiating Member will be allocated up to 40% (50% if matching only one other participant) of the Complex PIXL Order after public customer complex interest has been satisfied. After public customer complex interest and the Initiating Member have been allocated contracts, other complex interest will be considered for allocation with SQT, RSQT, and non-SQT ROT interest being allocated in a size pro-rata fashion followed by non-market maker off-floor broker dealer complex interest in a size pro-rata fashion. Once all complex interest, including both Complex Orders and PAN responses, has been satisfied, interest comprising the cPBBO will be considered for allocation. Public customer interest comprising the cPBBO will be afforded priority over non-public customer interest comprising the cPBBO and will be allocated in a price time manner. After public customer interest comprising the cPBBO has been satisfied, SQT, RSQT, and non-SQT ROT interest comprising the cPBBO will be allocated in a size pro-rata fashion followed by non-market maker off-floor broker dealer complex interest in a size pro-rata fashion.

Complex Orders today which are executed as part of a Complex Order Live Auction (COLA) trade first based on the best prices available at the end of the COLA timer. If markets for the individual components of the Complex Order independently improve during the COLA Timer and match the best price of COLA Sweeps(s) and/or responsive Complex Order interest, the responses will be executed before executing the individual components of the Complex Order. Since a Complex PIXL Order must be stopped at a price which improves upon all interest in the Phlx XL system at time of receipt, the proposed Complex PIXL execution algorithm ensures and maintains the priority of established interest. In the event that the individual components of the Complex PIXL Order independently improve during the Auction and new interest is received during the auction, Complex Orders and PAN responses will be afforded priority over individual component interest comprising the cPBBO at a given price point just as auction responses and Complex Orders are afforded priority over individual components of a Complex Order that independently improve during a COLA. It is important to note, however, that public customer complex interest will maintain priority over non-public customer complex interest and public customer interest comprising the cPBBO will be afforded priority over non-public customer interest comprising the cPBBO. The Complex PIXL Auction allows for all participant types, including public customers, to respond to the auction notification.[25] Public customers responding to the auction or submitting complex order interest during the auction will be afforded priority over non-customer interest. Public customer interest comprising the cPBBO will be afforded priority over non-customer interest comprising the cPBBO but not over complex order or PAN response interest. Such public customer interest was provided the opportunity to respond to the auction and/or submit complex interest during the auction. Since public customer interest comprising the cPBBO chose not to avail themselves of the opportunity to respond to the auction, the public customer interest representing individual components of the cPBBO will not be afforded priority over participants offering contra-side interest to the Complex PIXL for all components of the Complex PIXL Order at the same price point.

Sixth, the Exchange is proposing new language in Rule 1080(n)(ii)(E)(2)(e) regarding allocation of Complex Order PIXL where an Initiating Member selected "stop and NWT" in respect to the stop price of a PIXL Order submission. Specifically, new subsection (2)(e) states that in the case of a Complex Order PIXL, if the

[25] Rule 1080(n)(ii)(A)(5) (re-numbered from subsection (A)(4)) provides that any person or entity may submit responses to the PAN, provided such response is properly marked specifying price, size and side of the market.

Initiating Member selected the "stop and NWT" option for the Complex PIXL Order submission, contracts shall be allocated as follows: (i) First to Complex Orders and PAN responses at prices better than the NWT price, as well as to quotes and orders which comprise the cPBBO if such cPBBO is better than the NWT price, pursuant to the algorithm set forth above in (n)(ii)(E)(2)(d)(i) through (iv) of Rule 1080 and (ii) next, to Complex Orders and PAN responses, as well as to quotes and orders which comprise the cPBBO at the end of the Auction, at the Initiating Member's NWT price and at prices better than or equal to the Initiating Member's stop price, beginning with the NWT price. The Initiating Member shall be allocated an equal number of contracts as the aggregate size of all other interest at each price point, except that the Initiating Member shall be entitled to receive up to 40% (or 50% if matching only one other participant) of the contracts remaining at the final price point (including situations where the final price is the stop price), after public customer Complex Orders and PAN responses have been satisfied. In the case of an Initiating Order with a NWT price at the market, the Initiating Member shall be allocated an equal number of contracts as the aggregate size of all other interest at all price points, except that the Initiating Member shall be entitled to receive up to 40% (or 50% if matching only one other participant) of the contracts remaining at the final price point (including situations where the final price is the stop price), after public customer Complex Orders and PAN responses have been satisfied. If there is other interest at the final price point the contracts will be allocated to such interest pursuant to the algorithm set forth in (n)(ii)(E)(2)(d)(i) through (iv) of this rule. Any remaining contracts shall be allocated to the Initiating Member.[26]

For example, a Complex Order to buy one of option A and sell one of option B, 100 times, with a cPBBO of $0.40 bid, $0.70 offer, could be submitted into PIXL by the Initiating Member with a single stop price of $0.60 and a NWT price of $0.55. Assume that during the Auction, a market maker (MM1) responds to the auction notification and offers to sell the same Complex Order strategy 10 times at a price of $0.55 as well as offers to sell the strategy 25 times at a price of $0.60. In addition, assume that a public customer Complex Order to sell the strategy 10 times at $0.60 is received and another market maker (MM2) responds to sell the strategy 25 times at $0.60. At the end of the Auction, the Complex PIXL Order will be executed 10 times at a price of $0.55 against MM1 and an additional 10 times at a price of $0.55 against the Initiating Member since he indicated he was willing to match all interest down to $0.55 by using the NWT functionality. The Complex PIXL Order will then execute 10 times at a price of $0.60 against the public customer offer. Then, the Initiating Member will be allocated 40% of the remaining 70 strategy contracts, i.e. 28 strategy contracts, of the Complex PIXL Order at the stop price of $0.60. The two market maker responders will execute the remaining 42 contracts in a pro-rata fashion with both MM1 and MM2 trading 21 strategy contracts each.

Seventh, the Exchange is proposing new language in Rule 1080(n)(ii)(E)(2)(g) to stipulate that Complex PIXL Orders which include a stock/ETF component will only execute against Complex Orders or PAN responses that also include the stock/ETF component. Such orders will not "leg" to the simple market and will therefore not trade against interest comprising the cPBBO at the end of the Auction.[27] This behavior is consistent with the handling of Complex Orders that include a stock/ETF component and are entered into the Phlx system.[28] Legging of a stock/ETF component would introduce the risk of a participant not receiving an execution on all components of the Complex Order and is therefore not considered as a means of executing a Complex Order which includes a stock/ETR component. The Exchange believes that introducing the risk of not having the ability to fully execute a complex strategy is counter-productive to, and inconsistent with, the effort to allow Complex Orders in PIXL. If there are Complex Orders and PAN responses which satisfy all components of the Complex Order in PIXL, including the stock component, the stock will be executed in the same manner as it is done today for Complex Orders.[29]

Eighth, the Exchange is proposing new language in Rule 1080(n)(ii)(H) regarding a Complex Order PIXL Auction price matching a Complex Order Book price on the same side of the market as the PIXL Order. Specifically, new subsection (H) states that if the Complex Order PIXL Auction price is the same as that of a Complex Order on the Complex Order Book on the same side of the market as the Complex PIXL Order, the PIXL Order may only be executed at a price that is at least one minimum price improvement increment better than the resting order's limit price; or if such resting order's limit price is equal to or crosses the stop price, then the entire PIXL Order will trade at the stop price with all better priced interest being considered for execution at the stop price. This is similar to how PIXL executions are handled today when an order on the same side as the PIXL Order is on the book.[30] Rule 1080(n)(ii)(H) is being proposed in order to provide for the same behavior when a Complex Order on the same side of the market as the Complex PIXL Order is resting on the book. For example, assume a Complex PIXL Order to buy 20 strategy contracts is stopped at a price of $0.60 when the cPBBO market is $0.40 bid, offered at $0.70. Additionally, assume a PAN response is received to sell 10 strategy contracts at $0.58. In addition, assume a Complex Order is received during the Auction to buy 10 strategy contracts for $0.58. The Complex Order received during the Auction will rest on the order book since it is not marketable against the cPBBO or against other resting Complex Order interest. At the end of the Auction, 10 strategy contracts of the Complex PIXL Order will be executed at $0.59, one price improvement increment better than the resting Complex Order bid of $0.58, against the PAN response and 10 strategy contracts of the Complex PIXL Order will be executed at $0.60 against the Initiating Order of the Complex PIXL. Considering a similar scenario where the Complex Order received during the Auction is to buy 10 strategy contracts for $0.60, at the end of the Auction, the entire Complex PIXL Order will be executed at $0.60 with the Initiating Order and the PAN response each executing 10

[26] Proposed new subsection (n)(ii)(E)(2)(f) states that a single quote, order or PAN response shall not be allocated a number of contracts that is greater than its size.

[27] Complex Orders that include a stock/ETF component and are submitted to the Phlx Complex Order book or entered into a Complex Order Live Auction (COLA) also have a similar restriction. Rule 1080, Commentary .08(a)(i).

[28] Commentary.08 (a)(i) to Rule 1080 states, for example, that stock-option orders can only be executed against other stock-option orders and cannot be executed by the System against orders for the individual components.

[29] The Exchange electronically communicates the underlying security component of the order to NOS for immediate execution as per Exchange Rule 1080 Commentary .08(h). In addition, only those participants with the appropriate documentation (e.g. a Qualified Special Representative ("QSR") arrangement with NOS), as required by Exchange Rule 1080 Commentary .08(a)(i), will be allowed to submit Complex Orders which include a stock component into PIXL.

[30] Rule 1080(n)(ii)(G).

strategy contracts. This is similar to how PIXL executions are handled today.

The Exchange is also proposing to add language to existing Rule 1080(n)(ii)(G) to state that if there is an order on the limit order book, on the same side of the market as the PIXL Order, which is "equal to or crosses" the stop price, then the entire PIXL Order will trade at the stop price with all better priced interest being considered for execution at the stop price. Currently, the rule does not address the case where the order on the limit order book is "equal to" the stop price. This change does not impact behavior since the order on the limit order book has been considered by the Phlx system to "cross" the stop price when its limit was equal to the stop price. Not adding the consideration when the limit order "crossed" the stop price would have resulted in PIXL Orders not being able to execute since they would be forced to improve the limit of the resting order which was also the PIXL Order stop price.

Ninth, the Exchange is proposing new language in Rule 1080(n)(ii)(J) regarding Complex Order PIXL Orders with stock components. Specifically, subsection (J)(1) states that a member organizations may only submit Complex PIXL Orders, Initiating Orders, Complex Orders, and/or PAN responses with a stock/ETF component if such orders/responses comply with the Qualified Contingent Trade Exemption from Rule 611(a) of Regulation NMS pursuant to the Act. Member organizations submitting such orders with a stock/ETF component represent that such orders comply with the Qualified Contingent Trade Exemption. Members of FINRA or the NASDAQ Stock Market ("NASDAQ") are required to have a Uniform Service Bureau/Executing Broker Agreement ("AGU") with Nasdaq Options Services LLC in order to trade orders containing a stock/ETF component; firms that are not members of FINRA or NASDAQ are required to have a Qualified Special Representative ("QSR") arrangement with Nasdaq Options Services LLC ("NOS") in order to trade orders containing a stock/ETF component.

New subsection (J)(2) states that where one component of a Complex PIXL Order, Initiating Order, Complex Order, or PAN response is the underlying security, the Exchange shall electronically communicate the underlying security component of a Complex PIXL Order (together with the Initiating Order, Complex Order, or PAN response, as applicable) to NOS, its designated broker-dealer, for immediate execution. Such execution and reporting will occur otherwise than on the Exchange and will be handled by NOS pursuant to applicable rules regarding equity trading.

And, new subsection (J)(3) states that when the short sale price test in Rule 201 of Regulation SHO[31] is triggered for a covered security, NOS will not execute a short sale order in the underlying covered security component of a Complex PIXL Order, Initiating Order, Complex Order, or PAN response if the price is equal to or below the current national best bid.[32] However, NOS will execute a short sale order in the underlying covered security component of a Complex PIXL Order, Initiating Order Complex Order, or PAN response if such order is marked "short exempt," regardless of whether it is at a price that is equal to or below the current national best bid.[33] If short sale restrictions of Rule 201 are in effect at the end of the Auction and either the Complex PIXL Order or the Initiating Order consists of a stock/ETF component which is a short sale, NOS will execute the short sale order in the underlying covered security component if such order is able to be executed at a price which is above than [sic] the national best bid at the time of execution. If NOS cannot execute the underlying covered security component of a Complex PIXL Order or Initiating Order in accordance with Rule 201 of Regulation SHO, the Exchange will cancel back the Complex PIXL Order and Initiating Order to the entering member organization. Similarly, if short sale restrictions of Rule 201 are in effect at the end of the Auction and there exist Complex Orders or PAN responses which consist of a stock/ETF component which is a short sale, NOS will execute the short sale order in the underlying covered security component if such order is able to be executed at a price which is above the national best bid at the time of execution. If NOS cannot execute the underlying covered security component of a Complex Order or PAN response in accordance with Rule 201 of Regulation SHO, the Exchange will cancel back the Complex Order and/or PAN response to the entering member organization. For purposes of this paragraph, the term "covered security" shall have the same meaning as in Rule 201(a)(1) of Regulation SHO.

The Exchange is also proposing two additional minor changes to the Phlx rules in order to accommodate Complex Order submission into the PIXL mechanism, and one clarifying change to the current PIXL rule. The first of these rule changes is to current Rule 1080(n)(i)(E),[34] which states that PIXL Orders submitted during the final second of the trading session in the affected series are not eligible to initiate an Auction and will be rejected. The Exchange is proposing to alter the language to state that orders submitted during the final "two seconds" of the trading session will not be eligible to initiate an Auction and will be rejected. The Exchange is increasing this duration from one to two seconds in order to accommodate the execution of multiple components of a Complex Order. Since this time allowance is set for PIXL as a whole, and not only for PIXL versus Complex PIXL, no orders submitted into the PIXL mechanism will be accepted when there remains less than two seconds in the trading session for the components of the order. Second, the Exchange is proposing to add language to Commentary .08(e)(i)(B)(2) of Rule 1080 to stipulate that a Complex Order that would otherwise be a COLA-eligible order that is received in a strategy where there is currently a Complex Order PIXL Auction in progress shall not be COLA-eligible. The Phlx XL system allows for only one Auction to be ongoing in a given series or strategy at a time. This rule will be changed slightly to include "strategy" as well as "series". With the allowance of Complex Orders into PIXL, the Complex Order rules will also be changed to stipulate that only one Auction, including both COLA and PIXL, may be conducted at a time in a given strategy.[35]

Lastly, the Exchange is submitting a clarifying change to current Rule 1080(n)(ii)(E)(2)(a). The rule currently states that if the Initiating Member is

[31] 17 CFR 242.201. *See* Securities Exchange Act Release No. 61595 (February 26, 2010), 75 FR 11232 (March 10, 2010). *See also* Division of Trading and Markets: Responses to Frequently Asked Questions Concerning Rule 201 of Regulation SHO, January 20, 2011 ("SHO FAQs") at *http://www.sec.gov/divisions/marketreg/mrfaqregsho1204.htm*.

[32] The term "national best bid" is defined in Rule 201(a)(4). 17 CFR 242.201(a)(4).

[33] The Exchange notes that a broker or dealer may mark a sell order "short exempt" only if the provisions of Rule 201(c) or (d) are met. 17 CFR 242.200(g)(2). Since NOS and the Exchange do not display the stock or ETF portion of a complex order, however, a broker-dealer should not be in a position to mark the short sale order "short exempt" under Rule 201(c). *See* SHO FAQs Question and Answer Nos. 4.2, 5.4, and 5.5. *See also* Securities Exchange Act Release No. 63967 (February 25, 2011), 76 FR 12206 (March 4, 2011) (SR–Phlx–2011–27) (discussing, among other things, Complex Orders marked "short exempt").

[34] Sub-section (n)(i)(E) of Rule 1080 is re-numbered to (n)(i)(F); and for conformity the re-numbering is reflected in the opening paragraph of subsection (n). In a similar vein, other subsections are re-numbered as needed (e.g. sub-section (n)(i)(C) is re-numbered to sub-section (n)(i)(D), (n)(i)(D) is re-numbered to (n)(i)(E), and (n)(i)(F) is re-numbered to (n)(i)(G)).

[35] Proposed Rule 1080(n)(ii).

matched by only one specialist, SQT or RSQT at the stop price, then the Initiating Member is entitled to 50% of the contracts executed at such price. The rule is being clarified to state that if the Initiating Member is matched by only one other "participant," which includes a specialist, SQT or RSQT, as well as any other exchange member, then the Initiating Member is entitled to 50% of the contracts executed at such price.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [36] in general, and furthers the objectives of Section 6(b)(5) of the Act [37] 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 a national market system, and, in general to protect investors and the public interest. This will be effectuated by rule changes that allow Complex Orders to be submitted into the Phlx price improvement (PIXL) mechanism.

PIXL is the Exchange's electronic order, trade, and execution system that allows a member of the Exchange known as an Initiating Member to electronically submit for execution an order it represents as agent on behalf of a public customer, broker-dealer, or any other entity against principal interest or against any other order it represents as agent provided it submits the PIXL Order for electronic execution into the PIXL Auction pursuant to the Rule. During the one-second blind PIXL Auction (PAN), the Initiating Member's stop price or NWT price may be improved to the benefit of the PIXL Order during the Auction, but may not be cancelled. Anyone may respond to the PAN by sending orders or quotes. At the conclusion of the Auction, the PIXL Order will be allocated at the best price(s). PIXL has proven to be, since its institution several years ago, an effective electronic price improvement and trading tool on the Exchange that, until this proposal, was not able to accept Complex Orders.

Complex Orders allow the simultaneous purchase and/or sale of two or more different options series in the same underlying security and for the same account. These orders are priced at a net debit or credit based on the relative prices of no more than six individual components for the purpose of executing a particular investment strategy. Complex Orders may also be stock-option orders, which enable buying or selling a stated number of units of an underlying stock or ETF coupled with the purchase or sale of options contract(s). Complex Orders allow the execution of spread and other multifaceted trading and hedging strategies that could not be done effectively, if at all, with multiple simple orders.

Currently, PIXL does not accommodate Complex Orders as is allowed on other options exchanges, such as ISE and the Chicago Board Options Exchange, Incorporated ("CBOE"), which have price-improving electronic auctions like PIXL. Clearly, Complex Orders are and will continue to become an increasingly important hedging and trading segment of the options industry. This proposal simply allows Complex Orders to be entered into the Exchange's PIXL Auction mechanism just as is allowed on ISE and CBOE.

The Exchange is proposing several rule changes to establish how Complex Orders will be accommodated in PIXL, including the following. First, new Rule 1080(n)(i)(C) regarding stopping the entire Complex Order of a conforming ratio when submitting such order into PIXL. Second, new Rule (n)(ii)(A)(2) to explain the process for initiating a PIXL Complex Auction. Third, new language in Rule 1080(n)(ii)(B)(3) to add a Complex Order PIXL alternative for concluding a Complex Order PIXL Auction. Fourth, new language in Rule 1080(n)(ii)(C) to add a Complex Order PIXL alternative for execution when a Complex PIXL Auction ended due to the cPBBO or the Complex Order book crossing the Complex Order PIXL stop price on the same side as the Complex PIXL Order. Fifth, new language in Rule 1080(n)(ii)(E)(2)(d) regarding allocation of Complex Order PIXL. Sixth, new language in Rule 1080(n)(ii)(E)(2)(e) regarding allocation of Complex Order PIXL where an Initiating Member selected "stop and NWT" in respect to the stop price of a PIXL Order submission. Seventh, new language in Rule 1080(n)(ii)(E)(g) to stipulate that Complex PIXL Orders which include a stock/ETF component will only execute against Complex Orders or PAN responses that also include the stock/ETF component. Eighth, new language in Rule 1080(n)(ii)(H) regarding a Complex Order PIXL Auction price matching a Complex Order Book price on the same side of the market as the PIXL Order. Ninth, new language in Rule 1080(n)(ii)(J) regarding Complex Order PIXL Orders with stock components. In addition, the three pilots applicable to Complex Orders (stopping the entire PIXL Order where the order is for a size less than 50 contracts, early conclusion of the PIXL Auction, and no minimum size requirement of orders entered into PIXL) are applicable to Complex Orders in PIXL.

The Exchange believes this proposal reflects reasonable and proper amendments to accommodate Complex Orders in PIXL, the Exchange's price-improvement mechanism that is a component of the fully automated options trading system Phlx XL. This ensures a dynamic, real-time trading mechanism that maximizes the opportunity for trade executions for Complex Orders.

The proposed changes are consistent with Section 6(b)(5) of the Act in that they 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 to protect investors and the public interest. In particular, the Exchange believes the proposed changes will result in more efficient trading and reduce the risk that Complex Orders fail to execute for investors by providing additional opportunities to accommodate Complex Orders in PIXL. The interaction of orders, including complex strategies and the Complex Book, will benefit investors by increasing the opportunity for Complex Orders to receive execution, while also enhancing execution quality for orders on the Complex Book. The Exchange believes that increased interaction, where possible, on a continuous and real-time basis of the bids and offers regarding a complex strategy, and the potential for price improvement through PIXL, will benefit market participants, investors, and traders.

The proposal would be of significant benefit to investors and traders as well as the public, which will gain the opportunity to submit additional orders types seeking price improvement through the PIXL mechanism. This may lead to an increase in Exchange volume. As such, the proposal is decidedly pro-competitive. In addition to increasing volume, the proposal would allow the Exchange to better compete against other markets that already offer accommodation of complex orders in their electronic auctions.

For all of the foregoing reasons and as discussed in the proposal, the Exchange believes the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to the Exchange.

[36] 15 U.S.C. 78f(b).

[37] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes the proposal is pro-competitive. First, the proposal would enable the Exchange to provide market participants with an expanded opportunity to realize price improvement of Complex Orders through PIXL. And second, the proposal would diminish the potential for foregone market opportunities on the Exchange by allowing Complex Orders in PIXL to be entered by all Phlx members, similarly to electronic price improvement functionality for complex orders that is allowed on other options 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–2013–46 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–2013–46. 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–2013–46, and should be submitted on or before June 5, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[38]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–11521 Filed 5–14–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69540; File No. SR–BATS–2013–024]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Amend and Restate the Amended and Restated By-Laws of BATS Exchange, Inc.

May 8, 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 April 29, 2013, BATS Exchange, Inc. (the "Exchange" or "BATS") 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 the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the by-laws of the Exchange.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange intends to amend and restate its Amended and Restated By-Laws (the "Current By-Laws") and adopt these changes as its Second Amended and Restated By-Laws (the "New By-Laws").

The amendments to the Current By-Laws include: (i) Providing that the Board of Directors will consist of four (4) or more directors, with the board fixing the actual number of directors from time to time by resolution of the Board of Directors rather than fixing the number of directors in by-laws; and (ii) clarifying the procedures for filling vacancies on the Board of Directors, including as it relates to filling vacancies on the board resulting from newly created directorships resulting from any increase in the number of directors. The amendments to the Current By-Laws will provide greater

[38] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

flexibility to the Board of Directors of the Exchange by permitting the board to increase or decrease the size of the board without the need to further amend the by-laws, but in all cases subject to the compositional requirements of the board set forth in the by-laws. The amendments to the Current By-Laws would also (i) clarify the procedures for filling vacancies for the Member Representative Director position, and (ii) add a new requirement that the processes for filling any director vacancies apply to vacancies created as a result of an increase in the size of the board. The Exchange is not proposing to amend any of the compositional requirements of the board set forth in the by-laws. Thus, any vacancies filled pursuant to the New By-Laws would be required to continue to comply with these requirements.

Number of Directors

Article III, Section 2(a) of the Current By-Laws fixes the number of directors of the Exchange at ten (10) directors. Article III, Section 2(a) of the New By-Laws would amend Article III, Section 2(a) to state that the Board of Directors of the Exchange shall consist of four (4) or more members, the number thereof to be determined from time to time by resolution of the Board of Directors, subject to the compositional requirements of the board set forth in Article III, Section 2(b). As a result of these compositional requirements, the board must, at a minimum, be comprised of at least four (4) directors. The Current By-Laws and the New By-Laws require that the Board of Directors consist of the following: (i) one (1) director who is the Chief Executive Officer of the Company; (ii) representation by Member Representative Directors of at least twenty percent (20%) of the board;[3] and (iii) representation by Non-Industry Directors (including at least one (1) Independent Director) that equals or exceeds the sum of the number of Industry Directors and Member Representative Directors. Under the Current By-Laws and the New By-Laws, the Chief Executive Officer is considered to be an Industry Director. With the Member Representative Director requirement of twenty percent (20%), the board must include at least one (1) Member Representative Director. Thus, the sum of the number of Industry Directors and Member Representative Directors would equal two (2) directors. As such, the board must also be comprised of at least two (2) Non-Industry Directors, bringing the total minimum size of the board to four (4) directors.

The New By-Laws will provide the board with the flexibility to increase or decrease the size of the board by resolution, rather than amending the by-laws each time the board seeks to increase or decrease the size of the board. The New By-Laws would continue to require that the Board of Directors meet the compositional requirements of Article III, Section 2(b).

Member Representative Director Vacancies

A Member Representative Director is defined in relevant part in Article I of the Current By-Laws as a Director "elected by the stockholders after having been nominated by the Member Nominating Committee[4] or by an Exchange Member pursuant to these By-Laws." Article III, Section 4 of the Current By-Laws in turn specifies the precise process the Member Nominating Committee is required to follow with the respect to the election and nomination of Member Representative Directors. Article III, Section 4(c) of the Current By-Laws specifies that the Member Representative Director nomination and election process includes the following requirements for member participation:

> Not later than sixty (60) days prior to the date announced as the date for the annual meeting of stockholders, the Member Nominating Committee shall report to the Nominating Committee and the Secretary the initial nominees for Member Representative Director positions on the Board that have been approved and submitted by the Member Nominating Committee. The Secretary shall promptly notify Exchange Members of those initial nominees. Exchange Members may identify other candidates ("Petition Candidates" for purposes of this Section 4) for the Member Representative Director positions by delivering to the Secretary, at least thirty-five (35) days before the date announced as the date for the annual meeting of stockholders (the "Record Date" for purposes of this Section 4), a written petition, which shall designate the candidate by name and office and shall be signed by Executive Representatives of ten percent (10%) or more of the Exchange Members. An Exchange Member may endorse as many candidates as there are Member Representative Director positions to be filled. No Exchange Member, together with its affiliates, may account for more than fifty percent (50%) of the signatures endorsing a particular candidate, and any signatures of such Exchange Member, together with its affiliates, in excess of the fifty percent (50%) limitation shall be disregarded.

As distinguished from the nomination and election of directors as part of the Exchange's annual stockholders meeting, Article III, Section 6 of the Current By-Laws specifies the procedures for filling *vacancies* on the board when a director position becomes vacant prior to the election of a successor at the end of such director's term, whether because of death, disability, disqualification, removal, or resignation. Under these circumstances, the Nominating Committee[5] must nominate, and the stockholders must elect, a person satisfying the classification for the directorship in compliance with the board compositional requirements of Article III, Section 2(b) of the Current By-Laws to fill such vacancy; provided, however, that if the remaining term of office of a Member Representative Director at the time of such director's termination is not more than six (6) months, during the period of vacancy the board is not deemed to be in violation of the board compositional requirements because of such vacancy.

The Current By-Laws do not separately specify a process for filling a Member Representative Director position that becomes vacant prior to the election of a successor at the end such director's term. This lack of specificity has led to some confusion regarding the exact process to follow. In particular, the Current By-Laws would appear to require that a Member Representative Director vacancy be filled by the Nominating Committee; however, such a requirement would conflict with the Current By-Laws' definition of a Member Representative Director, which requires in all cases that such person be nominated by the Member Nominating Committee or by an Exchange Member. The Exchange intended that its Current By-Laws would require that the Member Nominating Committee nominate one or more candidates to fill Member Representative Director vacancies, which is consistent with precedent from other exchanges.[6]

[3] Because the number of Member Representative Directors must be at least twenty percent (20%) of the board, it is required under the Current By-Laws and the New By-Laws that if twenty percent (20%) of the directors then serving on the board is not a whole number, such number of Member Representative Directors must he rounded up to the next whole number.

[4] *See* Article VI, Section 3 of the Current By-Laws for a detailed description of the Member Nominating Committee and its responsibilities.

[5] *See* Article VI, Section 2 of the Current By-Laws for a detailed description of the Nominating Committee and its responsibilities.

[6] *See* Article III, Section 3.5(b) of the Sixth Amended and Restated Bylaws of Chicago Board Options Exchange, Incorporated; *see also* Article II, Section 3 of the By-Laws of the NASDAQ Stock Market LLC; *see also* Article II, Section 2.8(b) of the By-Laws of Miami International Securities Exchange, LLC; *see also* Article III, Section 6(b) of the Amended and Restated Bylaws of EDGA

As such, Article III, Section 6(a) and (b) of the New By-Laws would clarify the procedures for filling Member Representative Director vacancies on the board to require that the Member Nominating Committee shall either (i) recommend an individual to the stockholders to be elected to fill such vacancy or (ii) provide a list of recommended individuals to the stockholders from which the stockholders shall elect the individual to fill such vacancy. In addition, Article III, Section 6(a) and (b) of the New By-Laws would add the requirement that the process for filling vacancies described therein shall be followed in the circumstance where such vacancy is created as a result of an increase in the size of the board. Generally, if the board has determined to increase the size of the board, it is creating the new directorship seat(s) because it has identified a qualified candidate(s) who would improve the overall quality of the board. Under these circumstances, time is of the essence and waiting to elect a director(s) to fill a newly created directorship seat(s) at the next scheduled annual stockholder meeting is not in the best interests of the Exchange or its stockholders. As such, it's necessary that the New By-Laws include a more streamlined process to fill any vacancies created by increasing the size of the board. In the case of a director filling a vacancy not resulting from a newly-created directorship, the new director would serve until the expiration of the remaining term. In the case of a director filling a vacancy resulting from a newly-created directorship, the new director would serve until the expiration of such person's designated term. In all cases, however, if the remaining term of office of a director at the time of such director's vacancy is not more than six (6) months, during the period of vacancy the board shall not be deemed to be in violation of Article III, Section 2(b) because of such vacancy. Under the Current By-Laws, this six-month grace period applies only to Member Representative Director vacancies. Under the New By-Laws, this six-month grace period would be expanded to apply to any director vacancy, which is consistent with precedent from other exchanges.[7] Applying the six-month grace period to filling any director vacancy, and not just a Member Representative Director vacancy, would avoid the board being in violation of the board compositional requirements of the by-laws during such vacancy. This, in turn, would be less disruptive to the director election process by permitting the vacancy to be filled at the next scheduled annual stockholder meeting, rather than through an earlier-held special stockholder meeting.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[8] In particular, (i) Article III, Section 2(a) of the proposed New By-Laws, which permits the board to increase or decrease the size of the board by resolution, and (ii) Article III, Section 6(a) and (b) of the proposed New By-Laws, which clarify the procedures for filling vacancies on the board as described above, are consistent with Section 6(b)(1) of the Act, because they provide the board with measured flexibility in the operation of the Exchange and clarify the method by which vacancies on the board may be filled by stockholders, thereby enabling the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. While under the proposed New By-Laws the method of determining the size of the board would change and the procedures for filling vacancies on the board would be explained in greater detail, the Exchange is not proposing to amend any of the compositional requirements of the board set forth in the Current By-Laws. As such, the board would be required to continue to comply with these requirements. The Exchange further believes that the proposed changes will provide greater flexibility to the Exchange in populating a Board of Directors that includes directors with relevant expertise, while continuing to ensure that the existing compositional requirements of the Exchange are met. Finally, the Exchange again notes that the New By-Laws, as proposed to be amended, are similar to the by-laws of other exchanges with respect to the size of the board as well as the filling of vacancies.[9]

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. Specifically, the Exchange believes that the New By-Laws do not directly affect competition between the Exchange and others that provide the same goods and services as the Exchange, since they do not affect the availability or pricing of such goods and services. To the extent that the proposed changes to the by-laws may be construed to have any bearing on competition, the Exchange believes that the changes will promote competition between the Exchange and other national securities exchanges that do not have a restrictive number of directors set forth in their respective by-laws and permit vacancies on the board to be filled using similar procedures.[10]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

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 self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Exchange, Inc and Article III, Section 6(b) of the Amended and Restated Bylaws of EDGX Exchange, Inc.

[7] *See* Article III, Section 6(a) of the Amended and Restated Bylaws of EDGA Exchange, Inc and Article III, Section 6(a) of the Amended and Restated Bylaws of EDGX Exchange, Inc.; see also Article III, Section 2(b) of the By-Laws of the NASDAQ Stock Market LLC.

[8] 15 U.S.C. 78f(b).

[9] *See supra* note 6.

[10] *Id.*

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–BATS–2013–024 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–BATS–2013–024. 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–BATS–2013–024, and should be submitted on or before June 5, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–11500 Filed 5–14–13; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69537; File No. SR–CBOE–2013–045]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, Relating to Trading Permit Holder Business Continuity Plans

May 8, 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 April 24, 2013, Chicago Board Options Exchange, Incorporated (the "Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On May 7, 2013, the Exchange filed Amendment No. 1 to the proposed rule change.[3] On May 8, 2013, the Exchange filed Amendment No. 2 to the proposed rule change.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment Nos. 1 and 2, 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 4.3 to require Trading Permit Holders ("TPHs") to create and maintain a Business Continuity Plan ("BCP"). The text of the proposed rule change is provided below.

(additions are italicized; deletions are [bracketed])

* * * * *

Chicago Board Options Exchange, Incorporated Rules

* * * * *

Rule 4.3. [Reserved] *Business Continuity Plans*

[Reserved.]

(a) Each TPH must create and maintain a written business continuity plan identifying procedures relating to an emergency or significant business disruption. Such procedures must be reasonably designed to enable the TPH to meet its existing obligations to customers. In addition, such procedures must address the TPH's existing relationships with other broker-dealers and third parties. The business continuity plan must be made available promptly upon request to Exchange staff.

(b) Each TPH must update its plan in the event of any material change to the TPH's operations, structure, business or location. Each TPH must also conduct an annual documented review of its business continuity plan to determine whether any modifications are necessary in light of changes to the TPH's operations, structure, business, or location. TPHs must designate a member of senior management to approve the plan and he or she shall be responsible for conducting the required annual review. The review must be made available promptly upon request to Exchange staff. In connection to an annual review, each TPH must conduct an annual test of its business continuity plan if such TPH has public customers. If the TPH does not have public customers, the TPH must only conduct such testing once every two years. The initial testing of a TPHs business continuity plan should be made within one calendar year of the approval of this rule. In addition, each TPH must conduct such testing during the first calendar year of becoming a TPH.

(c) The elements that comprise a business continuity plan are flexible and may be tailored to the size and needs of a TPH. Each plan, however, must at a minimum, address:

(1) Data back-up and recovery (hard copy and electronic);

(2) All mission critical systems;

(3) Financial and operational assessments;

(4) Alternate communications between customers and the TPH;

(5) Alternate communications between the TPH and its employees;

(6) Alternate physical location of employees;

(7) Critical business constituent, bank, and counter-party impact;

(8) Regulatory reporting;

(9) Communications with regulators, including the Exchange; and

(10) How the TPH will assure customers' prompt access to their funds and securities in the event that the TPH determines that it is unable to continue its business.

Each TPH must address the above-listed categories to the extent applicable and necessary. If any of the above-listed categories is not applicable, the TPH's business continuity plan need not address the category. The TPH's

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange modified *Exhibit 1* to provide a statutory basis for the proposed rule change.

[4] In Amendment No. 2, the Exchange modified *Exhibit 1* to replace Section II.B, Self-Regulatory Organization's Statement on Burden on Competition.

business continuity plan, however, must document the rationale for not including such category in its plan. If a TPH relies on another entity for any one of the above-listed categories or any mission critical system, the TPH's business continuity plan must address this relationship.

(d) Each TPH must disclose to its customers how its business continuity plan addresses the possibility of a future significant business disruption and how the TPH plans to respond to events of varying scope. At a minimum, such disclosure must be made in writing to customers at account opening, posted on the TPH's Web site (if the TPH maintains a Web site), and mailed to customers upon request.

(e) Emergency Contact.

(i) Each TPH shall report to the Exchange, via such electronic or other means as the Exchange may specify, prescribed emergency contact information for the TPH. The emergency contact information for the TPH includes designation of two associated persons as emergency contact persons. The emergency contact person shall be a member of senior management of the TPH and have knowledge of the TPH's business operations. A TPH with only one associated person shall designate as a second emergency contact person an individual, either registered with another firm or nonregistered, who has knowledge of the TPH's business operations (e.g., the member's attorney, accountant, or clearing firm contact).

(ii) Each TPH must promptly update its emergency contact information, via such electronic or other means as the Exchange may specify, in the event of any material change. With respect to the designated emergency contact persons, each TPH must identify, review, and, if necessary, update such designations.

** * * Interpretations and Policies:*

(01.) For purposes of this Rule, "Mission critical system" means any system that is necessary, depending on the nature of a TPH's business, to ensure prompt and accurate processing of securities transactions, including, but not limited to, order taking, order entry, execution, comparison, allocation, clearance and settlement of securities transactions, the maintenance of customer accounts, access to customer accounts and the delivery of funds and securities.

(.02) For purposes of this Rule, "Financial and operational assessment" means a set of written procedures that allow a TPH to identify changes in its operational, financial, and credit risk exposures.

(.03) For purposes of paragraph (b), each TPH must conduct a risk analysis to identify and quantify those areas of its business that are critical to day to day operation of business. Based upon this analysis, the TPH should test their business continuity plan to verify potential impacts. At a minimum each TPH should test Mission Critical areas that support its operations including, but not limited to, testing of financing lines that support the day to day functioning of the business. This testing should culminate in a report that identifies the date of the test, what areas of the business that were tested, who participated in the test, the result of the test, the identification of recommendations, and a timeframe to implement such recommendations. This report must be approved and signed by a member of senior management.

* * * * *

CBOE Stock Exchange (CBSX)

Rules

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Appendix A—Applicability of Rules of the Exchange

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4.3 Business Continuity Plans

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The text of the proposed rule change is also available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend Rule 4.3 to require TPHs to create and maintain a BCP. Currently, the Exchange has no such requirement. The Exchange believes adopting this new requirement will ensure TPHs are prepared in the event of an emergency or other disruption to their business. A disruption could be a natural disaster which could inhibit one or more functions of the TPHs business or could be more technical in nature like a systems failure of one or more of the TPHs systems. In addition, the disruption could be caused by a third party. For example, the Exchange may be unable to operate which would cause a disruption for the TPH. By creating a requirement [sic] each TPH must have a BCP, the Exchange is attempting to better ensure the marketplace will not be disrupted in the case of an emergency or other circumstance. Thus, the Exchange is proposing to adopt language in Rule 4.3 to outline this requirement for TPHs. The proposed rule change would also add text to CBOE Stock Exchange ("CBSX") Appendix A to make explicit the proposed Rule 4.3 would apply to CBSX as well.

The proposed rule change will require TPHs to create and maintain a written BCP identifying procedures relating to an emergency or significant business disruption. These procedures must be reasonably designed to meet the TPH's customers' needs and address existing relationships with broker-dealers and other third parties. The Exchange believes that adding such requirement will ensure that TPHs are prepared to react to such instance [sic] which could potentially negatively impact their participation on the Exchange. In addition, the proposed rule change would require TPHs to make the BCP promptly available to Exchange staff upon request. This requirement would allow the Exchange to regulate these plans while ensuring TPHs are in compliance with the proposed rule change.

The proposed rule change further requires TPHs to update their BCPs upon any material change. At a minimum, TPHs will be required to conduct a documented annual review of the BCP. TPHs must designate a member of senior management to approve the BCP, and he or she shall be responsible for conducting this annual review. The proposed rule change would require TPHs to make this review promptly available to Exchange staff upon request. An annual documented review requirement ensures that TPH BCPs will be re-visited on a periodic basis if not already done so and also allows the Exchange to request the review for compliance of the Rule. By requiring the annual review to be conducted by a member of senior management, the Exchange is ensuring that the appropriate employees of the TPH are

aware of the procedures in place. In connection to an annual review, each TPH must conduct testing of its BCP.

The proposed rule change would require at least an annual test of the BCP if the TPH has public customers or once every two years if the TPH does not have public customers. In addition, the proposed rule change would require the testing of the BCP to be completed upon the first calendar year of becoming a TPH. This testing timeframe requirement will help to ensure that the BCP is effective prior to the necessary use of such plan. The Exchange is also proposing to add language to describe what the test should entail and how it should be documented. More specifically, the Exchange is proposing to add language stating that each TPH must conduct a risk analysis to identify and quantify those areas of its business that are critical to day to day operation of business. Based upon this analysis, the TPH should test their business continuity plan to verify potential impacts. The Exchange is proposing to state that at a minimum each TPH should test Mission Critical areas which would include, but not be limited to, testing of financing lines that support the day to day functioning of the business. The Exchange believes that by adding this element to the testing requirements, TPHs will need to test critical functions of their operations and their ability to sustain in the event something should effects its business.

The Exchange is further proposing to add language specifying that this testing should culminate in a report that identifies the date of the test, what areas of the business that were tested, who participated in the test, the result of the test, the identification of recommendations, and a timeframe to implement such recommendations. This report must be approved and signed by a member of senior management. The Exchange believes documentation of this testing is critical for purposes of not only documenting the test was administered, but the required recommendations will help the TPH in distinguishes potential areas in the BCP that could use improvements. The Exchange also believes that requiring the testing to be signed by a member of senior management would ensure the correct people are looking at the strength of the BCP and potential holes within it giving those weaknesses a better chance of being improved upon. The Exchange is finally proposing to require this testing to be completed within one year of the approval of this rule. A new TPH will have one calendar year from becoming a TPH to test their BCP.

Next, the proposed rule change enumerates the minimum elements, to the extent those elements are applicable and necessary to the TPH's business, that such BCP must address. More specifically, the proposed rule change requires the BCP at a minimum addresses: (1) Data back-up and recovery (hard copy and electronic), (2) all mission critical systems, (3) financial and operational assessments, (4) alternate communications between customers and the TPH, (5) alternate communications between the TPH and its employees, (6) alternate physical location of employees, (7) critical business constituent, bank, and counter-party impact, (8) regulatory reporting, (9) communications with regulators, including the Exchange, and (10) how the TPH will assure customers' prompt access to their funds and securities in the event that the TPH determines that it is unable to continue its business. The Exchange is proposing to add Rule 4.3.01 to define, for purposes of this proposed rule, "mission critical system" as any system that is necessary (depending on the nature of the TPH's business) to ensure prompt and accurate processing of securities transaction which would include but not be limited to, "order taking, order entry, execution, comparison, allocation, clearance and settlement of securities transactions, the maintenance of customer accounts, access to customer accounts, and the delivery of funds and securities." In addition, the Exchange is proposing to add Rule 4.3.02 to define, for purposes of this proposed rule, "Financial and operation assessment" as "a set of written procedures that allow a TPH to identify changes in its operational, financial, and credit risk exposure."

If these elements are not applicable to a certain TPH, that TPH must document the rationale for not including the element within their BCP. In addition, if the TPH relies on another entity for any of the listed minimum elements, the TPH must address this structure in the BCP. By creating minimum elements, the Exchange is hoping to maintain an element of consistency in the BCPs while ensuring the BCPs are comprehensive and fulfilling their purpose. The Exchange does, however, realize that all TPHs are unique, and thus, not all elements may be applicable. Rather than allow for TPHs to merely disregard these elements, the Exchange is proposing to require TPHs to specifically refer to why these elements are not applicable to their business within their BCP.

Each TPH also must disclose to its customers how its BCP addresses the possibility of a future significant business disruption and how the member plans to respond to events of varying scope. Each TPH must make this disclosure, at a minimum, in writing to customers at account opening, by posting it on the TPH's Web site (if the member maintains a Web site), and by mailing it to customers upon request. The creation of a BCP is not fully effective unless all customers of a TPH are aware of the procedures in place. The Exchange believes this requirement protects investors by giving them notice to the TPHs anticipated responses to certain circumstances. It further allows the customers of TPHs to prepare appropriate procedures as well.

The proposed rule change also requires each TPH to report information for two emergency contacts. These contacts shall be members of the senior management of the TPH, or in the case the TPH only has one member of Senior Management, the emergency contact may be an individual who has knowledge of the TPH's business operations. This requirement requires these contacts remain up to date and allows the Exchange to contact the correct person at a TPH in the event the TPH must utilize the procedures in place in the BCP. Finally, the proposed rule change would also add text to CBSX Appendix A to make explicit the proposed Rule 4.3 would apply to CBSX members as well. The Exchange believes this text will serve to create a consistency between the Exchange and CBSX.

The Exchange will announce the implementation date of the proposed rule change in a Regulatory Circular to be published no later than 30 days following the approval date. The implementation date will be no later than 90 days following the approval date.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[5] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[6] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to,

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers because the proposed rule change will require all TPHs to create and maintain a BCP regardless of the kind of business they perform on the Exchange. In particular, the proposed rule change will help ensure that TPHs are prepared in the event of a significant business disruption. This will seek to stabilize the market in the event a TPH, or multiple TPHs at the same time, face(s) a situation where their participation in the market place might be compromised. In addition, other exchanges [sic] have similar rules[8] requiring procedures in place for these situations, and, thus, the Exchange believes harmonizing these requirements would protect the marketplace as a whole.

The Exchange also believes the proposed rule change is consistent with Section 6(b)(1) of the Act,[9] which provides that the Exchange be organized and have the capacity to be able to carry out the purposes of the Act and to enforce compliance by the Exchange's Trading Permit Holders and persons associated with its Trading Permit Holders with the Act, the rules and regulations thereunder, and the rules of the Exchange. Specifically, the Exchange believes that requiring TPHs to have a BCP helps to ensure TPHs have the ability to continue to comply with the Act and Exchange rules in instances of an emergency or other disruption.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE 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. Specifically, the Exchange does not believe requiring TPHs to create and maintain a BCP will burden competition as it will not change any activity on the Exchange. Instead, the proposed rule change will require TPHs to have a plan to function as they normally do in the event of an emergency or other severe business disruption.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

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–CBOE–2013–045 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–CBOE–2013–045. 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 20549–1090, 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–CBOE–2013–045, and should be submitted on or before June 5, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–11452 Filed 5–14–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69546; File No. SR–BATS–2013–025]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Related to Fees for Use of BATS Exchange, Inc.

May 9, 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 May 1, 2013, BATS Exchange, Inc. (the "Exchange" or "BATS") 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 Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The

[7] *Id.*

[8] *See* Financial Industry Regulatory Authority Rule ("FINRA") Rule 4370.

[9] 15 U.S.C. 78f(b)(1).

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

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 filed a proposal to amend the fee schedule applicable to Members [5] and non-members of the Exchange pursuant to BATS Rules 15.1(a) and (c). Changes to the fee schedule pursuant to this proposal are effective upon filing.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to modify the "Options Pricing" section of its fee schedule effective immediately, in order to (i) increase fees for any logical port with bulk-quoting capabilities; and (ii) to eliminate the waiver of fees for logical ports with bulk-quoting capabilities for Members achieving certain Quoting Incentive Program ("QIP") thresholds.

The Exchange offers a bulk-quoting interface which allows Users [6] of BATS Options to submit and update multiple bids and offers in one message through logical ports enabled for bulk-quoting.[7] A logical port represents a port established by the Exchange within the Exchange's system for trading and billing purposes. Each logical port established is specific to a Member or non-member and grants that Member or non-member the ability to operate a specific application, such as FIX order entry or PITCH data receipt. The bulk-quoting application for BATS Options is a particularly useful feature for Users that provide quotations in many different options.

Currently, the Exchange charges a fee of $1,000.00 per month per logical port with such bulk-quoting capabilities, which it began charging in October 2011.[8] The Exchange is proposing to increase the fee to $1,500.00 per month per logical port with bulk-quoting capabilities. Over time, the costs associated with maintaining the infrastructure of such ports has increased and the Exchange has recently incurred additional expenses in connection with improving the performance and capacity of bulk-quoting ports. Accordingly, the Exchange believes that the proposed increase in port fees will help the Exchange to continue to maintain and improve its infrastructure.

Additionally, the Exchange is proposing to eliminate the waiver of fees for logical ports with bulk-quoting capabilities for Members achieving QIP. The QIP is a program designed to enhance market quality by incentivizing Market Makers [9] to participate on BATS Options by providing supplemental rebates for executed orders that add liquidity where the Market Maker has an average daily trading volume ("ADV") of at least 0.25% of the total consolidated volume reported to the consolidated transaction reporting plan. Currently, the Exchange does not charge Members that participate in the QIP in more than 25 underlying securities for logical ports with bulk-quoting capabilities. The Exchange originally offered these free logical ports with bulk-quoting capability in order to encourage participation in the QIP and to increase the usage of bulk-quoting ports.[10]

The Exchange proposes to eliminate this waiver and to charge all Members equally for logical ports with bulk-quoting capabilities and to eliminate the exception for Members achieving the above described QIP thresholds. As mentioned above, as logical ports with bulk-capacity capabilities have become more widely adopted, the Exchange's infrastructure costs associated with offering and continuing to offer bulk-quoting capabilities have increased. Additionally, the Exchange believes that providing ports free of charge has not encouraged Members to reserve and maintain ports efficiently, but rather, has led to a significant number of ports that are reserved and enabled by such market participants, but are under-used. Accordingly, the Exchange believes that the imposition of port fees for Market Makers participating in the QIP will help the Exchange to continue to maintain and improve its infrastructure, while also encouraging Exchange customers to request and enable only the ports that are necessary for their operations related to the Exchange.

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 that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[11] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[12] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls.

The Exchange operates in a highly competitive market in which exchanges offer connectivity services as a means to facilitate the trading activities of members and other participants. Accordingly, fees charged for connectivity are constrained by the active competition for the order flow of such participants as well as demand for market data from the Exchange. If a particular exchange charges excessive fees for connectivity, affected members will opt to terminate their connectivity arrangements with that exchange, and adopt a possible range of alternative strategies, including routing to the applicable exchange through another participant or market center or taking that exchange's data indirectly. Accordingly, the exchange charging

[5] A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

[6] A User on BATS Options is either a member of BATS Options or a sponsored participant who is authorized to obtain access to the Exchange's system pursuant to BATS Rule 11.3.

[7] *See* Securities Exchange Act Release Nos. 65133 (August 15, 2011), 76 FR 52032 (August 19, 2011) (SR–BATS–2011–029) and 65307 (September 9, 2011), 76 FR 57092 (September 15, 2011) (SR–BATS–2011–034).

[8] *See* Securities Exchange Act Release No. 65407 (September 27, 2011), 76 FR 61127 (October 3, 2011) (SR–BATS–2011–037).

[9] As defined in Rule 16.1(a)(37), a "Market Maker" on BATS Options is a member of BATS Options registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter XXII of the Exchange's Rules.

[10] *See* Securities Exchange Act Release No. 66120 (January 9, 2012), 77 FR 2108 (January 13, 2012) (SR–BATS–2011–053).

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(4).

excessive fees would stand to lose not only connectivity revenues but also revenues associated with the execution of orders routed to it by affected members, and, to the extent applicable, market data revenues. The Exchange believes that this competitive dynamic imposes powerful restraints on the ability of any exchange to charge unreasonable fees for connectivity.

The Exchange believes that the proposal to increase fees for logical ports with bulk-quoting capability is equitably allocated, reasonable, and not unfairly discriminatory in that the proposal will help the Exchange to cover increasing infrastructure costs associated with offering and continuing to offer bulk-quoting capabilities to BATS Options Users. The Exchange notes that the use of such ports is optional and that market participants can continue to access BATS Options through other logical ports for $400.00 per month. At the same time, the Exchange believes that its fees for bulk-quoting ports are reasonable, given the benefits and added efficiencies Users of BATS Options realize through such ports. In addition, the Exchange believes that its fees are equitably allocated among its constituents and not unfairly discriminatory, as, upon eliminating the bulk port fee exemption for Market Makers meeting QIP threshold requirements, they are uniform in application to all Users of BATS Options.

For the same reasons discussed above, elimination of the bulk port fee waiver for Market Makers meeting QIP threshold requirements is reasonable, equitably allocated, and not unfairly discriminatory. In addition, elimination of the bulk port fee waiver is reasonable, equitably allocated, and not unfairly discriminatory because it will encourage those Members that were previously exempted from paying bulk port fees to reserve and maintain ports in a more efficient manner. This will allow the Exchange to continue to maintain and improve its infrastructure for all Exchange customers, while also encouraging Market Makers to request and enable only the ports that are necessary for their operations related to the Exchange.

(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. As discussed above, the Exchange believes that fees for connectivity are constrained by the robust competition for order flow among exchanges and non-exchange markets. Further, excessive fees for connectivity, including logical port fees, would serve to impair an exchange's ability to compete for order flow rather than burdening competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

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 [13] and paragraph (f)(2) of Rule 19b–4 thereunder.[14] 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 proposal 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–BATS–2013–025 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–BATS–2013–025. 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 changes 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 will also 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–BATS–2013–025 and should be submitted on or before June 5, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–11518 Filed 5–14–13; 8:45 am]

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[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(2).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69538; File No. SR–CHX–2013–10]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Consolidate All CHX Order Types, Modifiers, and Related Terms Under One Rule and to Clarify the Basic Requirements of All Orders Sent to the Matching System

May 8, 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 May 6, 2013, the Chicago Stock Exchange, Inc. ("CHX" or the "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 self-regulatory organization. The CHX has filed this

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposal pursuant to Rule 19b–4(f)(6) under the Act,[3] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CHX proposes to amend CHX rules, namely Article 1, Rule 2; Article 17, Rule 1; Article 20, Rule 1; Article 20, Rule 2A; Article 20, Rule 4; Article 20, Rule 5; Article 20, Rule 6; and Article 20, Rule 8 to consolidate all CHX order types, modifiers, and related terms (collectively referred to as "defined order terms") under one rule and to clarify the basic requirements of all orders sent to the CHX Matching System (the "Matching System"). The text of this proposed rule change is available on the Exchange's Web site at (*www.chx.com*) and in 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 CHX included statements concerning the purpose of and basis for the proposed rule changes 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 CHX has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend certain CHX rules to consolidate all defined order terms under one rule and to clarify the basic requirements of all orders sent to the Matching System.

Proposed Consolidation of Defined Order Terms Amended Article 1, Rule 2 and Article 20, Rule 4(b)

The Exchange proposes to consolidate the defined order terms found under current Article 1, Rule 2 and Article 20, Rule 4(b) under proposed Article 1, Rule 2, entitled "Order Types, Modifiers, and Related Terms" (the "consolidated list"). In doing, so, the Exchange proposes to eliminate subparagraphs (1)–(25) under current Article 20, Rule 4(b), as they will either be incorporated into the consolidated list or deleted, as discussed in detail below.

Moreover, the Exchange proposes to delete the following defined order terms from the CHX rules, as they are either redundant of other defined order terms or have never been implemented: "IOC Market" [4]; "ISO Cross" [5]; "Non-Regular Way Cross" [6]; "Outbound ISO" [7]; and "Post Only ISO." [8] A discussion of each deletion is detailed below.

In addition, the Exchange proposes to adopt new definitions for "Always Quote" and "Short Exempt," which are not currently defined in the CHX rules, but are currently available in the Matching System. A discussion of Always Quote and Short Exempt are detailed below.

With respect to the current defined order terms that are being incorporated into the consolidated list, the Exchange proposes to amend each defined term to the extent necessary to clarify how the defined order terms interact with each other within the context of the Matching System. In doing so, the Exchange also proposes to make corresponding grammatical amendments and technical amendments to improve logical flow. *It is important to note that the Exchange does not propose to substantively modify the operation of any of the current defined order terms or the operation of the Matching System.*

Thus, the Exchange proposes to classify each of the amended and proposed defined order terms into seven distinct categories, as proposed paragraphs (a)–(g):

(a) General Order Types;
(b) Order Execution Modifiers;
(c) Order Display Modifiers;
(d) Order Duration Modifiers;
(e) Order Settlement Terms;
(f) Order Size Attributes; and
(g) Special Order Handling.

General Order Types

Proposed Article 1, Rule 2(a) provides that limit, cross, and market orders are called "General Order Types" and that each shall be accepted by the Matching System, subject to the requirements of proposed Article 20, Rule 4.[9] This is consistent with proposed Article 20, Rule 4(a)(1), which provides that any order entered into the Matching System must be a limit, cross, or market order.[10]

Proposed paragraph (a)(1) is substantively identical to current Article 1, Rule 2(p), which defines a "limit"

[3] 17 CFR 240.19b–4(f)(6).

[4] Current Article 1, Rule 2(n) and Article 20, Rule 4(b)(13) states as follows:

"IOC market": a market order that is to he executed only during the Regular Trading Session, either in whole or in part, at or better than the Exchange's BBO (including any reserve size or other undisplayed orders at or better than that price), with any unexecuted balance of the order to be immediately cancelled. IOC market orders shall not be accepted until (i) the primary market in a security has opened trading in that security or (ii) two senior officers of the Exchange have determined that it is appropriate for the Exchange to accept IOC market orders. For purposes of this rule, another exchange will be considered to have opened for trading in a security when the first trade in that security occurs in that market on or after 8:30 a.m.

[5] Current Article 1, Rule 2(o) and Article 20, Rule 4(b)(14) states as follows:

"ISO cross": any type of cross order marked as required hy SEC Rule 600(b)(30) that is to be executed without taking any of the actions described in Rule 5 to prevent an improper trade-through. These orders shall be executed because the Participant routing the order to the Matching System has already satisfied the quotations of other markets as required by Rule 600(b)(30). (This provision shall become effective on the Trading Phase Date of Rule 611 of Reg NMS.)

[6] Current Article 1, Rule 2(u) and Article 20, Rule 4(b)(17) states as follows:

"Non-regular way cross": an order to buy and sell the same security that is not for regular way settlement. A non-regular way cross order may execute at any price, without regard to the NBBO or any other orders in the Matching System, and may represent interest of one or more Participants of the Exchange. Any non-regular way cross that is for cash settlement must be received hy the Matching System by 2:00 p.m. or such other time that may he established by the Exchange and communicated to Participants from time to time. A non-regular way cross order may only be executed in an increment permitted by Article 20, Rule 4(a)(7)(b).

[7] Current Article 1, Rule 2(z) and Article 20, Rule 4(b)(19)) states as follows:

"Outbound ISO": an order marked as required by SEC Rule 600(b)(30)(i) that is to be executed at or better than its limit price as soon as the order is received by the Matching System, with any unexecuted balance of the order to be immediately cancelled, coupled with one or more ISO orders designed to execute against any protected bids or offers at other market centers as required by Rule 600(b)(30)(ii). Orders marked outbound ISO shall be executed against any eligible orders in the Matching System (including any reserve size or other undisplayed orders). Other than the routing of ISOs to other market centers, no action shall be taken to prevent an improper trade-through.

[8] Current Article 20, Rule 4(b)(23) states as follows:

"Post Only ISO": a type of ISO order that will be immediately cancelled without execution if it is marketable against a contra-side order in the Matching System when entered. If a Post Only ISO is not immediately cancelled as described in the previous sentence, it will be posted on the Exchange at the entered limit price. By entering a Post Only ISO, a Participant represents that such Participant has simultaneously routed one or more additional limit orders marked "ISO," as necessary, to away markets to execute against the full displayed size of any protected quotation for the security with a price that is superior or equal to the limit price of the Post Only ISO entered in the Matching System. Consequently, a Post Only ISO order will be displayed by the Exchange regardless of whether it will lock or cross another market center's quote.

[9] The Exchange proposes to amend Article 20, Rule 4 to clarify the basic requirements of all orders sent to the Matching System. A detailed discussion of these amendments may be found below.

[10] *Id.*

order. In addition, the Exchange proposes to adopt additional language that states that all limit orders, except for limit orders marked "Price-Penetrating ISO," [11] shall be deemed to have been received "Day," [12] if an order duration modifier is not specified. That is, if an order sender does not attribute an order duration modifier to a limit order, the Matching System will treat the limit order as Day, by default.

Proposed paragraph (a)(2) is substantively identical to current Article 1, Rule 2(e), which defines a "cross" order. In addition, the Exchange proposes to adopt additional language that states that all cross orders shall be deemed to have been received Immediate Or Cancel ("IOC").[13] which cannot be overridden by an order sender. This is because cross orders do not rest on the CHX book since the contra-parties to the transaction are identified.

Proposed paragraph (a)(3) is substantively identical to both current Article 1, Rule 2(n), which defines "IOC market" [14] and current Article 1, Rule 2(q), which defines "market" [15] orders. That is, the proposed definition consolidates these definitions and adopts additional language that states that all market orders not marked IOC will be rejected. This is because all CHX market orders must be IOC and may not rest on the CHX book. In light of the proposed definition of "market" orders, the Exchange submits that maintaining a separate definition for "IOC market" is redundant and unnecessary and proposes to delete it from the CHX rules.

Since every order received by the Matching System is a limit, cross, or market order, the Exchange submits that limit, cross, and market orders are the only general order types offered by the Exchange. This is because limit, cross, and market orders are the only defined order terms that primarily relate to the *price* of the order. As discussed in detail below, virtually all of the other defined order terms listed under proposed Article 1, Rule 2 modify how an order is to be treated prior to order execution being completed (*e.g.* order execution, duration, and display modifiers) or set the terms of how an executed order is to be settled (*e.g.* order settlement terms).

Order Execution Modifiers

Proposed Article 1, Rule 2(b) provides that one or more order execution modifiers may be applied to a general order type, subject to the requirements of proposed Article 20, Rule 4, so long as the modifier is compatible with the general order type and other applicable order modifiers/terms. Thereunder, proposed paragraph (b)(1) lists order execution modifiers that may be attributed to *limit orders only*, proposed paragraph (b)(2) lists order execution modifiers that may be attributed to *cross orders only*, and proposed paragraph (b)(3) lists order execution modifiers that may be attributed to *multiple general order types*.

With respect to the definition of each defined order term listed under proposed Rule 2(b), the Exchange proposes a global amendment to the definition of each order execution modifier so that each defines itself as an "order modifier" and not merely as an "order," as well as any corresponding grammatical amendments. The purpose of this amendment is to clarify that an order execution modifier is not a distinct general order type.

Proposed paragraph (b)(1) lists the order execution modifiers that may be attributed to limit orders only, as proposed subparagraphs (A)–(E):

(A) BBO ISO;
(B) Cancel On Halt;
(C) CHX Only;
(D) Post Only; and
(E) Price-Penetrating ISO.

Proposed paragraph (b)(1)(A) is substantively identical to current Article 1, Rule 2(a), which defines "BBO ISO," and adopts additional language that states that a limit order marked BBO ISO shall be deemed to have been received "Do Not Route," [16] which cannot be overridden by the order sender. In addition, the Exchange proposes to omit the word "order" and replace it with the more accurate "limit order modifier."

Proposed paragraph (b)(1)(B) is substantively identical to current Article 1, Rule 2(c), which defines "Cancel On Halt." Aside from the amendment to the definition to refer to itself as a "limit order modifier," the Exchange does not propose to make any other amendments.

Proposed paragraph (b)(1)(C) is substantively identical to current Article 1, Rule 2(y), which defines "CHX Only," and adopts additional language that states that a limit order marked CHX Only shall be deemed to have been received Do Not Route, which cannot be overridden by the order sender. In addition, the Exchange proposes to omit the word "order" and replace it with the more accurate "limit order modifier."

Proposed paragraph (b)(1)(D) is substantively identical to current Article 20, Rule 4(b)(18), which defines "Post Only," and adopts additional language that states that a limit order marked Post Only shall be deemed to have been received Do Not Route, which cannot be overridden by the order sender. In addition, pursuant to the global amendment discussed above, the Exchange proposes to omit the word "order" and replace it with the more accurate "limit order modifier."

In light of this amended definition of Post Only, the Exchange proposes to delete "Post Only ISO" [17] from the CHX rules, because a Post Only ISO is simply a limit order marked Post Only and BBO ISO and not a distinct order modifier. As such, the Exchange submits that maintaining a separate defined order term for "Post Only ISO" is redundant and unnecessary.

Proposed paragraph (b)(1)(E) is substantively identical to current Article 1, Rule 2(aa), which defines "Price-Penetrating ISO," and adopts additional language that states that a limit order marked Price-Penetrating ISO shall be deemed to have been received IOC, which cannot be overridden by the order sender. In addition, the Exchange proposes to omit the word "order" and replace it with the more accurate "limit order modifier."

Proposed paragraph (b)(2) lists the order execution modifiers that may be attributed to cross orders only, as proposed subparagraphs (A)–(E):

(A) Benchmark;
(B) Cross With Satisfy;
(C) Cross With Yield;
(D) Midpoint Cross;
(E) Qualified Contingent Trade.

Proposed paragraph (b)(2)(A) is substantively identical to current Article 1, Rule 2(b), which defines

[11] As discussed below, proposed Article 1, Rule 2(b)(1)(E) provides, *inter alia*, that a limit order marked "Price-Penetrating ISO" is deemed to have been received IOC.

[12] Proposed Article 1, Rule 2(d)(1) defines "Day" as "an order that is in effect only for the day on which it is submitted to the Exchange," which is substantively identical to current Article 20, Rule 2(i).

[13] Proposed Article 1, Rule 2(d)(4) defines "IOC" as, *inter alia*, an order modifier that requires an order to be executed, either in whole or in part and for limit orders, at or better than its limit price, as soon as the order is received by the Matching System, with any unexecuted balance of the order to be immediately cancelled. Orders marked IOC shall be executed against any orders in the Matching System at or better than the Exchange's BBO (including any Reserve Size or undisplayed orders at or better than that price). This definition is substantively identical to current Article 1, Rule 2(m).

[14] *Supra* note 4.

[15] Current CHX Article 1, Rule 2(q) defines "market" as an order to buy or sell a specific amount of a security at the best price available once the order is presented in the market.

[16] Proposed Article 1, Rule 2(b)(3)(A) defines "Do Not Route" as a limit or market order modifier that requires an order to only be executed or displayed within the Exchange's Matching System and not be routed to another market.

[17] *Supra* note 8.

"Benchmark." Aside from the amendment to the definition to refer to itself as a "cross order modifier," the Exchange does not propose to make any other amendments.

Proposed paragraph (b)(2)(B) is substantively identical to current Article 1, Rule 2(f), which defines "Cross With Satisfy." [18] Aside from the amendment to the definition to refer to itself as a "cross order modifier," the Exchange does not propose to make any other amendments.

Proposed paragraph (b)(2)(C) is substantively identical to current Article 1, Rule 2(h), which defines "Cross With Yield." [19] Aside from the amendment to the definition to refer to itself as a "cross order modifier," the Exchange does not propose to make any other amendments.

Proposed paragraph (b)(2)(D) is substantively identical to current Article 1, Rule 2(r), which defines "Midpoint Cross." Aside from the amendment to the definition to refer to itself as a "cross order modifier," the Exchange does not propose to make any other amendments.

Proposed paragraph (b)(2)(E) is substantively identical to current Article 1, Rule 2(bb), which defines "Qualified Contingent Trade." Aside from the amendment to the definition to refer to itself as a "cross order modifier," the Exchange does not propose to make any other amendments.

Proposed paragraph (b)(3) lists the order execution modifiers that may be attributed to multiple general order types, as proposed subparagraphs (A)–(E):

(A) Do Not Route;
(B) ISO;
(C) Not Held;
(D) Sell Short; and
(E) Short Exempt.

Proposed paragraph (b)(3)(A) is substantively identical to current Article 1, Rule 2(k), which defines "Do Not Route," except that the proposed definition omits reference to IOC and Fill Or Kill ("FOK") orders having to be marked Do Not Route. As discussed below, the Exchange proposes to include such language in the definition of IOC and FOK, individually. Aside from the amendment to the definition to refer to itself as a "limit or cross order modifier," the Exchange does not propose to make any other amendments.

Proposed paragraph (b)(3)(B) is substantively identical to current Article 20, Rule 4(b)(15), which defines "Intermarket Sweep" or "ISO," and adopts additional language that states that orders marked ISO shall be executed because the Participant routing the order to the Matching System has already satisfied the quotations of other markets as required by Rule 600(b)(30) and that a limit order marked ISO that is not marked BBO ISO shall be deemed to have been received Price-Penetrating ISO, which cannot be overridden by the order sender. The main distinction between BBO ISO and Price-Penetrating ISO is that the unexecuted portion of a BBO ISO may post to the CHX book, so long as it is not marked IOC, whereas the unexecuted portion of a Price-Penetrating ISO will *always* be immediately cancelled. That is, this additional language clarifies that the Matching System treats all limit orders marked ISO as Price-Penetrating ISO, and by extension IOC, unless specifically marked otherwise. In addition, the Exchange proposes to omit the word "order" and replace it with the more accurate "limit or cross order modifier."

In light of this amended definition of ISO, the Exchange proposes to delete ISO Cross [20] from the CHX rules, because an ISO Cross is simply a cross order marked ISO and not a distinct order modifier. As such, the Exchange submits that maintaining a separate defined order term for "ISO Cross" is redundant and unnecessary.

Moreover, the Exchange proposes to delete Outbound ISO [21] from the CHX rules. The Exchange included Outbound ISO in its rules as part of its migration to a new trading model in 2006.[22] However, the Exchange never adopted Outbound ISO, due to the fact that the Exchange never implemented its routing functionality.[23]

Proposed paragraph (b)(3)(C) is substantively identical to current Article 1, Rule 2(w), which defines "Not Held," and adopts additional language that clarifies that the Not Held instruction may only apply to orders sent by a customer to an Exchange Participant and that any order received by the Matching System marked Not Held shall be rejected. The Exchange notes that this clarification represents the current operation of the Not Held modifier.

Proposed paragraph (b)(3)(D) is substantively identical to current Article 1, Rule 2(ff), which defines "Sell Short." Aside from the amendment to the definition to refer to itself as an "order modifier," the Exchange does not propose to make other amendments.

Proposed paragraph (b)(3)(E) defines "Short Exempt" similarly to proposed paragraph (b)(3)(D) as an order modifier that marks any security "short exempt" under Rule 200(g) of Regulation SHO. Since the Exchange already requires order senders to mark sell orders to comport with Rule 200(g) of Regulation, the Exchange proposes to adopt "Short Exempt" as a defined order term.

Order Display Modifiers

Proposed Article 1, Rule 2(c) provides that one or more display modifiers may be applied to a limit order, subject to the requirements of Article 20, Rule 4, so long as the modifier is compatible with the general order type and other applicable order modifiers/terms. Since market and cross orders are never posted as they are always IOC, order display modifiers are not applicable to those general order types. If an order display modifier is not selected, the order is considered to be fully-displayable.

Similar to the amendments to the defined order terms under proposed paragraph (b), the Exchange proposes a global amendment to the definition of each order display modifier so that each defines itself as an "order modifier" and not merely as an "order," as well as any accompanying grammatical amendments.

Proposed paragraph (c)(1) defines "Always Quote" as a limit order modifier which will cause the CHX Matching System to cancel the unexecuted balance of an otherwise displayable order, where the unexecuted balance is an odd lot and priced at the CHX best bid or best offer ("CHX BBO") [24] and the order cannot be displayed as part of an aggregated quote because there are no other orders on the CHX book with which such an order can be aggregated, pursuant to Article 20, Rule 8(d)(3).[25] That is, if an odd lot

[18] Cross With Satisfy and Cross With Yield are not currently enabled. The Exchange anticipates filing a proposed rule filing pursuant to Rule 19b–4 under the Act to modify Cross With Satisfy and Cross With Yield prior to enabling the modifiers.

[19] *Id.*

[20] *Supra* note 5.

[21] *Supra* note 7.

[22] *See* Exchange Act Release No. 54550 (September 29, 2006), 71 FR 59563 (October 10, 2006) (SR–CHX–2006–05).

[23] The Exchange anticipates filing a proposed rule change pursuant to Rule 19b–4 under the Act in connection with its initiative to implement an order routing functionality. If the Exchange elects to offer a routing order type, the Exchange will submit a related rule filing(s) pursuant to Rule 19b–4 under the Act.

[24] The CHX BBO may be displayed or undisplayed. For example, a fully-displayable odd lot order that is not displayed may be at the CHX BBO.

[25] Current Article 20, Rule 8(d)(3) states as follows:

Odd-lot orders and unexecuted odd-lot remainders that are unable to be immediately displayed according to Rule 8(b)(6) above (because they are at a price that is better than the current CHX quote) shall either remain in, or be rejected from, the Exchange's Matching System according to

remainder of an order meets the above definition, but the order is not marked Always Quote, the order will remain on the CHX book, as a displayable order that is undisplayed. It is important to note that although the Exchange does not currently define "Always Quote," the "Participant's instruction" specifically referred to in Article 20, Rule 8(d)(3) implies the functionality of the Always Quote modifier under current CHX rules.

Proposed paragraph (c)(2) is substantively identical to current Article 1, Rule 2(j), which defines "Do Not Display." Aside from the amendment to the definition to refer to itself as a "limit order modifier," the Exchange does not propose to make any other amendments.

Proposed paragraph (c)(3) is substantively identical to current Article 1, Rule 2(dd), which defines "Reserve Size." Aside from the amendment to the definition to refer to itself as a "limit order modifier," the Exchange does not propose to make any other amendments.

Order Duration Modifier

Proposed Article 1, Rule 2(d) provides that an order duration modifier may be applied to a general order type, subject to the requirements of proposed Article 20, Rule 4, so long as the modifier is compatible with the general order type and other applicable order modifiers/terms. However, since market and cross orders are always IOC, such orders may not be attributed any other order duration modifier, whereas limit orders may be marked with any order duration modifier to the extent compatible.

Similar to the amendments to the defined order terms under proposed paragraph (b) and (c), the Exchange proposes a global amendment to the definition of each order duration modifier so that each defines itself as an "order modifier" and not merely as an "order," as well as any accompanying grammatical amendments.

Proposed paragraph (d)(1) is substantively identical to current Article 1, Rule 2(i), which defines "Day." Aside from the amendment to the definition to refer to itself as a "limit order modifier," the Exchange does not propose to make any other amendments.

Proposed paragraph (d)(2) is substantively identical to current Article 1, Rule 2(l), which defines "Fill Or Kill" or "FOK," and adopts additional language that states an order marked FOK shall be deemed to have been received Do Not Route, which cannot be overridden by an order sender. In addition, the Exchange proposes to omit the word "order" and replace it with the more accurate "limit order modifier."

Proposed paragraph (d)(3) is substantively identical to current Article 1, Rule 2(ii), which defines "Time In Force." Currently, the CHX rules use the term "Time In Force" to refer to order duration modifiers generally [26] and the specific modifier currently defined under current Article 1, Rule 2(ii) and Article 20, Rule 4(b)(24). Thus, for the sake of clarity, the Exchange proposes to rename the specific order modifier "Good 'Til Date" or "GTD." In addition to the name change, the Exchange proposes to omit the word "order" and replace it with the more accurate "limit order modifier."

Proposed paragraph (d)(4) is substantively identical to current Article 1, Rule 2(m), which defines "Immediate Or Cancel" or "IOC," and adopts additional language that states that an order marked IOC shall be deemed to have been received Do Not Route, which cannot be overridden by the order sender. In addition, the Exchange proposes to omit the word "order" and replace it with the more accurate "order modifier."

Order Settlement Terms

Proposed paragraph (e) provides that one order settlement term shall be applied to a general order type, subject to the requirements of Article 20, Rule 4, so long as the term is compatible with the general order type and other applicable order modifiers.

Proposed paragraph (e)(1) is substantively identical to current Article 1, Rule 2(cc), which defines "Regular Way Settlement," and adopts additional language that states that, by default, all contracts are subject to Regular Way Settlement. This is consistent with current Article 20, Rule 4(a)(3) that requires all orders to be for Regular Way Settlement and Article 20, Rule 4(a)(7)(a), which permits only non-regular way cross orders to be marked for non-regular way settlement.

Proposed paragraph (e)(2), which defines "Non-Regular Way Settlement" is a consolidation of few current defined order terms each of which are a subtype of Non-Regular Way Settlement. The proposed paragraph is substantively identical to current Article 1, Rule 2(v), which defines "Non-Regular Way Settlement." Moreover, the proposed paragraph clarifies that only cross orders are eligible for Non-Regular Way Settlement, which is consistent with current Article 20, Rule 4(a)(7)(a), and that cross orders marked for Non-Regular Way Settlement may execute at any price, without regard to the NBBO or any other orders in the Matching System, which is substantively identical to similar language in current Article 1, Rule 2(u), which defines "non-regular way cross."

Thereunder, proposed paragraph (e)(2)(A) is substantively identical to current Article 1, Rule 2(d), which defines "Cash Settlement," with additional language that incorporates current Article 1, Rule 2(u), which defines "Non-Regular Way Cross." Specifically, the additional language provides that any cross order that is for Cash Settlement must be received by the Matching System by 2:00 p.m.[27] or such other time that may be established by the Exchange and communicated to Participants from time to time. Given the fact that the proposed definitions of "cross," "Non-Regular Way Settlement," and "Cash Settlement" fully incorporate the current definition of "non-regular way cross," [28] the Exchange proposes to omit "non-regular way cross" from the CHX rules. Similar to IOC market, Post Only ISO, and ISO Cross, a "non-regular way cross" is not a distinct order type, as it is simply a cross order marked for Non-Regular Way Settlement. As such, the Exchange submits that maintaining a separate defined order term for "non-regular way cross" is redundant and unnecessary.

Proposed paragraph (e)(2)(B) is substantively identical to current Article 1, Rule 2(t), which defines "Next Day," whereas proposed paragraph (e)(2)(C) is substantively identical to current Article 1, Rule 2(gg), which defines "Seller's Option."

Order Size Attributes

Proposed paragraph (f) lists defined order terms related to order size. Specifically, proposed paragraph (f)(1) is substantively identical to current Article 1, Rule 2(j), which defines "Mixed Lot;" proposed paragraph (f)(2) is substantively identical to current Article 1, Rule 2(x), which defines "Odd Lot;" and proposed paragraph (f)(3) is substantively identical to current Article 1, Rule 2(ee), which defines "Round Lot."

It is important to note that these order size attributes are not modifiers or terms

each Participant's instructions. Orders remaining in the Matching System will continue to be ranked at the price and time at which they were originally received. Orders that are rejected from the Matching System shall be routed away according to Rule 8(h) below or, if designated "do not route," automatically cancelled.

[26] *See* Article 11, Rule 3(b)(14); *see also* paragraph .01(13) of the Interpretations and Policies of Article 11, Rule 4.

[27] All times referred to in the CHX rules are in Central Standard Time, unless explicitly stated otherwise.

[28] *Supra* note 6.

in the same sense as the defined order terms listed under proposed paragraphs (a)–(e). Rather, they are defined order terms that describe the size of an order received by the Matching System, which are most notably useful in the context of order aggregation for order display purposes, pursuant to current Article 20, Rule 8.

Special Order Handling

Proposed paragraph (g) provides that an order may be subject to special handling under certain circumstances. Thereunder, proposed paragraph (g)(1) is substantively identical to current Article 1, Rule 2(g), which defines "Cross With Size," with organizational amendments to improve logical flow and deletions to update the language to comport with the current operation of the Matching System.

Specifically, the proposed paragraph (g)(1) provides that a cross order (except a Cross With Yield, any cross order subject to Non-Regular Way Settlement or a cross order marked ISO) to buy and sell at least 5,000 shares of the same security with a total value of at least $100,000 will execute, notwithstanding resting orders in the CHX book at the same price, where (A) the order is at a price equal to or better than the best bid or offer displayed in the Matching System and would not constitute a trade-through under Regulation NMS (including all applicable exceptions and exemptions); and (B) the size of the order must be larger than the largest order displayed in the Matching System at that price. Moreover, the Matching System will execute any cross order or modified cross order (except a Cross With Yield, any cross order subject to Non-Regular Way Settlement or a cross order marked ISO) as a Cross With Size if the order meets the requirements for a Cross With Size. A Cross With Size may represent interest of one or more Participants of the Exchange. A Cross With Size order may only be executed in an increment permitted by Article 20, Rule 4(a)(7)(b).

Aside from various amendments to replace the term "Non-Regular Way Cross," with the more accurate "cross order subject to Non-Regular Way Settlement," the Exchange proposes to delete from the proposed paragraph (g)(1)(B) language that requires the cross order to be of a size that is one round lot larger than the aggregate size of all interest displayed at that price. Since the Exchange now provides a constant book feed, the distinction between order size prior to and after dissemination of a feed of all displayable orders is moot. Thus, the Exchange submits that the remaining language requiring, *inter alia*, the size of the Cross With Size order to be larger than the largest order displayed in the Matching System at that price, is sufficient to ensure orders handled as Cross With Size meet the requisite size requirement.

Proposed Basic Requirements of Orders Sent to the Matching System Amended Article 20, Rule 4(a)

The Exchange proposes to amend Article 20, Rule 4(a) to clearly enunciate the basic requirements of orders sent to the Matching System. The following amendments clarify what is already required or implied by current CHX rules and does not substantively modify the operation of the Matching System.

The Exchange proposes to amend Article 20, Rule 4(a)(1) to provide that an order sent to the Matching System must be a limit, cross, or market order and that these eligible general order types are listed and defined under proposed Article 1, Rule 2(a). This requirement may be currently found via three separate provisions read together. Specifically, current Article 20, Rule 4(a)(1) provides that all orders must be limit orders; current Article 20, Rule 4(a)(7)(b) provides that cross orders may be submitted; and current Article 20, Rule 4(a)(7)(c) provides that IOC market orders may be submitted. Given this lack of clarity in the current rules, the Exchange submits that the amendment to Rule 4(a)(1) is appropriate.

The Exchange also proposes to amend Article 20, Rule 4(a)(2) to provide that all orders must be attributed an order duration modifier and that these order duration modifiers are listed under proposed Article 1, Rule 2(d). This amendment is necessary because current Rule 4(a)(2) states that all order must be Day orders, which is partially accurate and incomplete. That is, the current language is accurate to the extent that orders resting on the CHX book will not be carried over to the following trading day and that all limit orders are defaulted to Day, pursuant to proposed Article 1, Rule 2(a)(1). However, the current rule does not make clear that an order may be attributed a more a restrictive order duration modifier, such as IOC or FOK. Given this lack of clarity in the current rules, the Exchange submits that the amendment to Rule 4(a)(2) is also appropriate.

The Exchange proposes to make various amendments throughout the rest of Article 20, Rule 4 to update citations and references to certain amended/omitted defined order terms. Notably, the Exchange proposes to amend Article 20, Rule 4(a)(3) to insert a citation to proposed Article 1, Rule 2(e)(1), discussed in detail below, which defines "Regular Way Settlement." The Exchange also proposes to amend Article 20, Rule 4(a)(7)(a) to replace the term "non-regular way cross" with "cross." As discussed in detail above, the term "non-regular way cross" is redundant and, as such, the Exchange proposes to omit that term from the consolidated list. Similarly, the Exchange proposes to amend Rule 4(a)(7)(b) to remove the term "non-regular way cross" and replace it with the more accurate phrase, "cross order designated for Non-Regular Way Settlement." Moreover, the Exchange propose to amend Rule 4(a)(7)(c) to remove the term "IOC market" and to clarify that market orders must be marked IOC. As discussed above, the term "IOC market" is redundant and, as such, the Exchange proposes to omit that term from the consolidated list.

Given the consolidated list, the Exchange proposes to delete all of the defined order terms listed under current Article 1, Rule 4(b) as current subparagraphs (1)–(25). In addition, the Exchange proposes to amend current Rule 4(b) to provide that as designated by the Exchange, the general order types, modifiers, and related terms listed under proposed Article 1, Rule 2 may be eligible for entry to and acceptance by the Matching System, at the discretion of the Exchange. Proposed Rule 4(b) further provides that announcements regarding order eligibility under this paragraph shall be made by the Exchange via Regulatory Circular and will be provided in a manner to give reasonable advance notice to its market participants.

Various Other Updates

Given the numerous changes to citations and deletions and/or consolidation of some current defined order terms, the Exchange proposes the following amendments throughout the CHX rules.

The Exchange proposes to amend paragraph .02 of the Interpretations and Policies of Article 17, Rule 1 to update the citation for "Benchmark" orders to proposed Article 1, Rule 2(b)(2)(A).

The Exchange proposes to amend paragraph .03 of the Interpretations and Policies of Article 20, Rule 1 to replace "non-regular way cross" with "cross orders marked for Non-Regular Way Settlement," given the proposed deletion of "non-regular way cross" from the CHX rules, discussed in detail above.

The Exchange proposes to amend Article 20, Rule 2A(a)(4)(A) to update the citations for "limit," "market," and "cross" orders to Article 1 Rule 2(a)(1),

Rule 2(a)(3), and Rule 2(a)(2), respectively. The Exchange proposes to amend paragraph (b)(1) to update citations to "Reserve Size" and "Do Not Display" to Article 1, Rule 2(c)(3) and Article 1, Rule 2(c)(2), respectively. The Exchange proposes to amend paragraph (b)(2) to update the citation for "CHX Only" to Article 1, Rule 2(b)(1)(C).

The Exchange proposes to delete the substance of paragraph .01(e) of the Interpretations and Policies of Article 20, Rule 5 and replace it with a "Reserved" marker. As discussed above, the Exchange proposes to delete the order execution modifier "Outbound ISO" from the CHX rules because the modifier has never been adopted since it was included in the CHX rules in 2006. For the same reason, the Exchange proposes to amend paragraph .03(a) of the Interpretations and Policies of Article 20, Rule 5 to omit reference to "Outbound ISO." [29]

The Exchange proposes to amend paragraph .01(h) of the Interpretations and Policies of Article 20, Rule 5 to update the citation for the definition of "Qualified Contingent Trades" to proposed Article 1, Rule 2(b)(2)(E).

The Exchange proposes to amend Article 20, Rule 6(d) to update the citation for "CHX Only" to Article 1, Rule 2(b)(1)(C).

The Exchange proposes to amend Article 20, Rule 8(e)(1) to update the citations for "cross" and "Cross With Satisfy" to Article 1, Rule 2(a)(2) and Rule 2(g)(1), respectively. The Exchange also proposes to amend Rule 8(e)(3) to update the citation for "Non-Regular Way Settlement" to Article 1, Rule 2(e)(2).

The Exchange proposes to amend paragraph .02 of Article 20, Rule 8 to update the citation for "Cross With Satisfy" to Article 1, Rule 2(b)(2)(B).

2. Statutory Basis

The Exchange believes that its proposal to consolidate all defined order terms and to clarify the basic requirements of all orders sent to the Matching System is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[30] In particular, the proposal is consistent with Section 6(b)(5) of the Act,[31] because it would 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. The Exchange believes that the consolidated list of defined order terms and the clarification of the basic requirement of order sent to the Matching System promote just and equitable principles of trade by enhancing transparency concerning the structure of order types utilized by the Exchange. For the same reasons, the Exchange believes that the proposed amendments will contribute to the protection of investors and the public interest by making the CHX rules easier to understand.

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 changes to consolidate all defined order terms under one rule and to clarify the basic requirements of all orders sent to the Matching System contribute to the protection of investors and the public interest by making the CHX rules easier to understand. Since the Exchange does not propose to substantively modify the operation of the Matching System, the proposed changes 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 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 [32] and Rule 19b–4(f)(6) thereunder.[33]

A proposed rule change filed under Rule 19b–4(f)(6) [34] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[35] 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 and allow the proposed rule change to be immediately operative, noting that doing so would allow the Exchange to immediately offer Participants a more organized CHX rulebook and clarity with respect to the basic requirements of orders sent to the Matching System. The Exchange further notes that the proposed clarification to the basic requirements of an order sent to the Matching System and the consolidation of all general order types, modifiers, and related terms offered by the Exchange under one list will make the operation of the Matching System more transparent to Participants and will, in turn, encourage market participants to utilize the Exchange's services over its competitors. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest [36] because it will allow the Exchange to immediately provide increased transparency regarding the operation of the Matching System. The Commission believes that this increased transparency will benefit CHX market participants and therefore waives the 30-day operative delay and designates the proposal operative upon filing.

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:

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[29] The Exchange anticipates filing a proposed rule change pursuant to Rule 19b–4 under the Act in connection with its initiative to implement an order routing functionality. In submitting such a filing, the Exchange will propose a new order modifier(s) to replace "Outbound ISO" and will propose a new corresponding paragraph .01(e) and .03(a).

[30] 15 U.S.C. 78f(b).

[31] 15 U.S.C. 78f(b)(5).

[32] 15 U.S.C. 78s(b)(3)(A).

[33] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its 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.

[34] 17 CFR 240.19b–4(f)(6).

[35] 17 CFR 240.19b–4(f)(6)(iii).

[36] 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).

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–CHX–2013–10 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CHX–2013–10. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public 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-CHX–2013–10 and should be submitted on or before June 5, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[37]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–11453 Filed 5–14–13; 8:45 am]

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[37] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69549; File No. SR–BX–2013–035]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Correct BX Rule 2140(c)

May 9, 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 May 6, 2013, NASDAQ OMX BX, Inc. (the "Exchange" or "BX") 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 correct BX Rule 2140(c) to reference NASDAQ Options Services LLC ("NOS").

The text of the proposed rule change is below; proposed new language is in italics.

* * * * *

NASDAQ OMX BX

Equity Rules

* * * * *

2140. Restrictions on Affiliation

(a)–(b) No change.

(c) The NASDAQ OMX Group, Inc., which is the holding company owning [both] the Exchange, [and] NASDAQ Execution Services, LLC, *and NASDAQ Options Services LLC,* shall establish and maintain procedures and internal controls reasonably designed to ensure that *neither* NASDAQ Execution Services, LLC *nor NASDAQ Options Services LLC* [does not] develops or implements changes to its system on the basis of non-public information regarding planned changes to Exchange systems, obtained as a result of its affiliation with the Exchange, until such information is available generally to similarly situated members of the Exchange in connection with the provision of inbound routing to the Exchange.

* * * * *

[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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposal is to correct Rule 2140(c) to refer to NOS, in addition to NASDAQ Execution Services, LLC ("NES").

NOS is owned by The NASDAQ OMX Group, Inc., which also owns three registered securities exchanges—the Exchange, The NASDAQ Stock Market LLC ("NASDAQ") (and its facility, the NASDAQ Options Market), and NASDAQ OMX PHLX LLC ("PHLX").[3] Therefore, NOS is an affiliate of these exchanges. The Exchange adopted Rule 2140(c) to prevent potential informational advantages resulting from the affiliation between BX and NES, as related to NES's authority to route equities orders from PHLX's PSX facility and NASDAQ. The Exchange intended to add NOS to this rule, as related to NOS' authority to route options orders from PHLX and NOM to BX Options. This intention was expressed in the proposed rule change where BX received approval to permit BX Options to receive inbound routes of options orders by NOS in its capacity as an order routing facility of PHLX and NOM, as part of the approval of the proposed rule change establishing BX Options, but the rule text was inadvertently not amended accordingly.[4] In that proposed rule change, BX agreed to certain conditions and obligations, which it has adopted. Specifically, it stated that the Exchange

[3] *See* Securities Exchange Act Release Nos. 58324 (August 7, 2008), 73 FR 46936 (August 12, 2008) (SR–BSE–2008–02; SR–BSE–2008–23; SR–BSE–2008–25; SR–BSECC–2008–01) (order approving NASDAQ OMX's acquisition of BX); and 58179 (July 17, 2008) (SR–PHLX–2008–31), 73 FR 42874 (July 23, 2008) (order approving NASDAQ OMX's acquisition of PHLX).

[4] Securities Exchange Act Release No. 67256 (June 26, 2012), 77 FR 39277 (July 2, 2012) (SR–BX–2012–030).

has in place BX Rule 2140(c), which requires NASDAQ OMX, as the holding company owning both the Exchange and NOS, to establish and maintain procedures and internal controls reasonably designed to ensure that NOS does not develop or implement changes to its system, based on nonpublic information obtained regarding planned changes to the Exchange's systems as a result of its affiliation with the Exchange, until such information is available generally to similarly situated Exchange members, in connection with the provision of inbound order routing to the Exchange. Although the Exchange did not have that provision in place, the Exchange intended to and has complied with it as though it had properly been included at the time of adoption.

2. Statutory Basis

BX believes that its proposal is consistent with Section 6(b) of the Act[5] in general, and furthers the objectives of Section 6(b)(5) of the Act[6] in particular, in that it is designed to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, by correcting the rule text, consistent with the intention and description in a prior proposed rule change.

B. Self-Regulatory Organization's Statement on Burden on Competition

BX 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. It does not raise any issues of intra-market competition because it involves correcting a rule pertaining to inbound routing from an affiliated exchange. Nor does it result in a burden on competition among exchanges, because there are many competing exchanges that provide routing services, including through an affiliate.

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 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[7] and Rule 19b–4(f)(6) thereunder.[8]

The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Doing so will allow the proposal to become operative immediately in order to avoid confusion, consistent with the protection of investors and the public interest.[9] Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[10]

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 under Section 19(b)(2)(B)[11] 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–BX–2013–035 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–2013–035. 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–BX–2013–035 and should be submitted on or before June 5, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

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[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 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.

[9] The Commission notes that it previously approved the condition (*See* Securities Exchange Act Release No. 67256, 77 FR 39277), and that the Exchange represents that it has complied with the terms of such condition.

[10] 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).

[11] 15 U.S.C. 78s(b)(2)(B).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69545; File No. SR–ICC–2013–03]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Withdrawal of Proposed Rule Change Relating to Recovery and Resolution Arrangements

May 9, 2013.

On March 7, 2013, ICE Clear Credit LLC ("ICC") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 [1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to clearinghouse resolution and recovery arrangements. Notice of the proposed rule change was published in the **Federal Register** on March 27, 2013.[3] The Commission did not receive comments on the proposed rule change.

On May 7, 2013, ICC withdrew the proposed rule change (SR–ICC–2013–03).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[4]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–11517 Filed 5–14–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69544; File No. SR–ICEEU–2013–07]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Delivery Procedures To Reflect the Clearing Relationship for ICE Futures Europe

May 9, 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 April 24, 2013, ICE Clear Europe Limited ("ICE Clear Europe") 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 ICE Clear Europe. ICE Clear Europe filed the proposal pursuant to Section 19(b)(3)(A)(iii)[3] of the Act, and Rule 19b–4(f)(4)(ii)[4] thereunder, so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the rule amendments is to permit ICE Clear Europe to act as the clearing organization for certain futures and options contracts listed on ICE Futures Europe. The rule amendments consist of various conforming and technical changes to the Delivery Procedures to reflect new futures contracts to be listed on ICE Futures Europe. All capitalized terms not defined herein are defined in the ICE Clear Europe Delivery Procedures.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe 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. ICE Clear Europe has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.[5]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

ICE Clear Europe will act as the clearing organization for certain futures and options contracts listed on ICE Futures Europe, a designated contract market with the Commodity Futures Trading Commission. The rule amendments consist of various conforming and technical changes to existing ICE Clear Europe Delivery Procedures to reflect the addition of new futures products.

Specifically, Sections A, C, and D of the ICE Clear Europe Delivery Procedures has been updated to account for new futures products, among other revisions. Among other things, Section A of the Delivery Procedures relating to emissions contracts has been amended to reflect changes to EU legislation, the use of a single EU registry, and certain new emissions contracts previously launched by ICE Futures Europe. The definition of the term "Delivery Month" in Section C has been revised to account of each individual product.

ICE Clear Europe made the emissions and auction changes effective on December 5, 2012. The electricity and natural gas contract changes were to be made effective on April 29, 2013.

Section 17A(b)(3)(F) of the Act[6] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions. ICE Clear Europe believes that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICE Clear Europe, in particular, with Section 17A(b)(3)(F).[7]

B. Self-Regulatory Organization's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed change would have any impact, or 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 relating to the proposed change were solicited, but no comments were received. ICE Clear Europe will notify the Commission of any written comments received by ICE Clear Europe.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(iii)[8] of the Act and Rule 19b–4(f)(4)(ii)[9] thereunder because it effects a change in an existing service of a registered clearing agency that primarily affects the futures clearing operations of the clearing agency with respect to futures that are not security futures and does not significantly affect any securities clearing operations of the clearing agency or any related rights or obligations of the clearing agency or

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 69201 (Mar. 21, 2013), 78 FR 18646 (Mar. 27, 2013).

[4] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(4)(ii).

[5] The Commission has modified the text of the summaries prepared by ICE Clear Europe.

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] *Id.*

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(4)(ii).

persons using such service. 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.[10]

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–ICEEU–2013–07 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–ICEEU–2013–07. 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 also will be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's Web site at *https://www.theice.com/publicdocs/regulatory_filings/ICEU_SEC_042413.pdf*.

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–ICEEU–2013–07 and should be submitted on or before June 5, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–11407 Filed 5–14–13; 8:45 am]

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[10] 15 U.S.C. 78s(b)(3)(C).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69548; File No. SR–Phlx–2013–49]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Various Sections of the Exchange's Pricing Schedule

May 9, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that on May 1, 2013, NASDAQ OMX PHLX LLC ("Phlx" 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 proposes to amend the Exchange's Pricing Schedule with respect to the Customer [3] Rebate Program in Section B, certain pricing in Section II entitled "Multiply Listed Options Fees,"[4] including Qualified Contingent Cross ("QCC") Rebates,[5] and Section IV, entitled "Other Transaction Fees," PIXL [6] Pricing and FLEX Options [7] pricing. The Exchange also proposes to eliminate references to RUT and clarify the treatment of certain strategies.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.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.

[3] The term "Customer" applies to any transaction that is identified by a member or member organization for clearing in the Customer range at The Options Clearing Corporation ("OCC") which is not for the account of broker or dealer or for the account of a "Professional" (as that term is defined in Rule 1000(b)(14)).

[4] The pricing in Section II includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed.

[5] A QCC Order is comprised of an order to buy or sell at least 1000 contracts that is identified as being part of a qualified contingent trade, as that term is defined in Rule 1080(o)(3), coupled with a contra-side order to buy or sell an equal number of contracts. The QCC Order must be executed at a price at or between the National Best Bid and Offer and be rejected if a Customer order is resting on the Exchange book at the same price. A QCC Order shall only be submitted electronically from off the floor to the PHLX XL II System. *See* Rule 1080(o). *See also* Securities Exchange Act Release No. 64249 (April 7, 2011), 76 FR 20773 (April 13, 2011) (SR–Phlx–2011–47) (a rule change to establish a QCC Order to facilitate the execution of stock/option Qualified Contingent Trades ("QCTs") that satisfy the requirements of the trade through exemption in connection with Rule 611(d) of the Regulation NMS). A Floor QCC Order must: (i) Be for at least 1,000 contracts, (ii) meet the six requirements of Rule 1080(o)(3) which are modeled on the QCT Exemption, (iii) be executed at a price at or between the National Best Bid and Offer ("NBBO"); and (iv) be rejected if a Customer order is resting on the Exchange book at the same price. In order to satisfy the 1,000-contract requirement, a Floor QCC Order must be for 1,000 contracts and could not be, for example, two 500-contract orders or two 500-contract legs. *See* Rule 1064(e). *See also* Securities Exchange Act Release No. 64688 (June 16, 2011), 76 FR 36606 (June 22, 2011) (SR–Phlx–2011–56).

[6] PIXL is the Exchange's price improvement mechanism known as Price Improvement XL or (PIXL℠). *See* Rule 1080(n).

[7] The term "FLEX option" means a FLEX option contract that is traded subject to this Rule. Although FLEX options are generally subject to the rules in this section, to the extent that the provisions of this Rule are inconsistent with other applicable Exchange rules, this Rule takes precedence with respect to FLEX options. *See* Exchange Rule 1079.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Category A of the Customer Rebate Program to offer increased rebate opportunities for PIXL Orders greater than 999 contracts in Section II symbols. The Exchange proposes to amend Section II to increase the maximum QCC rebate that will be paid by the Exchange, adopt a new fee and rebate for certain floor transactions, clarify the treatment of strategies and eliminate RUT from the Pricing Schedule. Finally, the Exchange proposes to amend its PIXL Pricing and relocate and adopt new FLEX Multiply Listed Options pricing.

Customer Rebate Program

Currently, the Exchange has in place a four tier structure Customer Rebate Program at Section B of the Pricing Schedule which pays Customer rebates on four Categories (A, B, C and D) of transactions. The four tier structure pays rebates based on percentage thresholds of national customer multiply-listed options volume by month based on the same four Categories (A, B, C and D) of transactions. Specifically, the Exchange bases a market participant's qualification for a certain Rebate Tier on the percentage of total national customer volume in multiply-listed options which are transacted monthly on Phlx as follows:

Customer rebate tiers	Percentage thresholds of national customer volume in multiply-listed equity and ETF options classes (Monthly)	Category A	Category B	Category C	Category D
Tier 1	0.00%–0.75%	$0.00	$0.00	$0.00	$0.00
Tier 2	Above 0.75%–1.60%	0.11	0.12	0.13	0.08
Tier 3	Above 1.60%–2.60%	0.13	0.13	0.14	0.08
Tier 4	Above 2.60%	0.15	0.15	0.15	0.09

Today, the Exchange totals Customer volume in Multiply Listed Options (including Select Symbols) that are electronically-delivered and executed, except volume associated with electronic QCC Orders, as defined in Exchange Rule 1080(o) in the same manner.[8] Members and member organizations under common ownership[9] may aggregate their Customer volume for purposes of calculating the Customer Rebate Tiers and receiving rebates. Category A rebates are paid to members executing electronically-delivered Customer Simple Orders in Penny Pilot Options and Customer Simple Orders in Non-Penny Pilot Options in Section II. Rebates are paid on PIXL Orders in Section II symbols that execute against non-Initiating Order interest. Category B rebates are paid to members executing electronically-delivered Customer Complex Orders in Penny Pilot Options and Non-Penny Pilot Options in Section II. Category C rebates are paid to members executing electronically-delivered Customer Complex Orders in Select Symbols in Section I. Category D rebates are paid to members executing electronically-delivered Customer Simple Orders in Select Symbols in Section I. Rebates are paid on PIXL Orders in Section I symbols that execute against non-Initiating Order interest.

The Exchange proposes to amend Category A of the Customer Rebate Program to instead pay on PIXL Orders in Section II symbols that execute against non-Initiating Order interest, except in the case of a PIXL Order that is greater than 999 contracts. All PIXL Orders that are greater than 999 contracts will be paid a rebate regardless of the contra party to the transaction. The Exchange is not proposing any additional amendments to the Customer Rebate Program.

Section II Amendments

The Exchange proposes to remove references to FLEX Option pricing in Section II of the Pricing Schedule. The Exchange will adopt new FLEX Option pricing in Section IV of the Pricing Schedule, which will be described in additional detail below.

The Exchange proposes to adopt new pricing for Specialists[10] and Market Makers[11] that are contra to a Customer Penny Pilot Options on Exchange Traded-Fund ("ETFs")[12] on the Exchange's floor of $0.25 per contract in addition to the Floor Options Transaction Charges in Section II of the Pricing Schedule.[13] Additionally, the contra Customer order to the Specialist and Market Maker transaction will be entitled to a rebate of $0.25 per contract. The Exchange believes that this new pricing will encourage trading in Penny Pilot Options on ETFs on the Exchange's trading floor.

Finally, the Exchange is removing references the reference to options on the Russell 2000® Index (the "Full Value Russell Index" or "RUT") in Section II of the Pricing Schedule as the Exchange delisted RUT as of April 24, 2013.

Section IV Amendments

PIXL

The Exchange proposes to amend PIXL pricing at Section IV, Part A of the Pricing Schedule. Currently, the Exchange assesses an Initiating Order[14] a $0.07 per contract or $0.05 per contract fee if the Customer Rebate Program Threshold Volume, defined in Section B, is greater than 100,000

[8] For clarity, the Exchange will calculate volume and pay rebates based on a member organization's Phlx house account numbers.

[9] Common ownership means 75% common ownership or control.

[10] A Specialist is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

[11] A Market Maker includes Registered Options Traders (Rule 1014(b)(i) and (ii)), which includes Streaming Quote Traders (*see* Rule 1014(b)(ii)(A)) and Remote Streaming Quote Traders (*see* Rule 1014(b)(ii)(B)). Directed Participants are also market makers.

[12] An ETF is an open-ended registered investment company under the Investment Company Act of 1940 that has received certain exemptive relief from the Commission to allow secondary market trading in the ETF shares. ETFs are generally index-based products, in that each ETF holds a portfolio of securities that is intended to provide investment results that, before fees and expenses, generally correspond to the price and yield performance of the underlying benchmark index.

[13] Specialists and Market Makers are assessed a Floor Options Transaction Charge of $0.25 per contract. *See* Section II of the Pricing Schedule.

[14] A member may electronically submit for execution an order it represents as agent on behalf of a public customer, broker-dealer, or any other entity ("PIXL Order") against principal interest or against any other order (except as provided in Rule 1080(n)(i)(E)) it represents as agent ("Initiating Order") provided it submits the PIXL order for electronic execution into the PIXL Auction ("Auction") pursuant to Rule 1080. *See* Exchange Rule 1080(n).

contracts per day in a month.[15] The Exchange proposes to amend the PIXL pricing to state that an Initiating Order fee for a Firm that is contra to a Customer PIXL Order will be reduced to $0.00 if a Customer PIXL Order is greater than 999 contracts. The Exchange believes that this amendment will encourage Firms to transact a greater number of PIXL Orders.

FLEX

The Exchange also proposes to add a new Part B to Section IV entitled "FLEX Transaction Fees." As mentioned herein, FLEX Options pricing is currently located in Section II of the Pricing Schedule. Today, the Exchange assesses Customers no fee for transacting FLEX Options. All other market participants, Professionals,[16] Specialists, Market Makers, Broker-Dealers[17] and Firms,[18] are assessed $0.10 per contract when transacting FLEX Options.[19] Further, today the Firm Floor Options Transaction Charges are waived for members executing facilitation orders pursuant to Exchange Rule 1064 when such members are trading in their own proprietary account (including FLEX and Cabinet Options Transaction Charges).[20]

The Exchange proposes to adopt new FLEX Multiply Listed Options pricing in Section IV, Part B of the Pricing Schedule for Multiply Listed Options. FLEX Transaction Customer Fees for Multiply Listed Orders on the Exchange's trading floor[21] will continue to be assessed no fee for transacting FLEX Options. All other market participants, Professionals, Specialists, Market Makers, Broker-Dealers and Firms, will now be assessed an increased fee of $0.15 per contract when transacting FLEX Options.[22] The Exchange will continue to apply the Monthly Firm Fee Cap,[23] Monthly Market Maker Cap,[24] and the Options Surcharge in PHLX/KBW Bank Index ("BKX"), options on the one-tenth value of the Nasdaq 100 Index traded under the symbol MNX ("MNX") and options on the Nasdaq 100 Index traded under the symbol NDX ("NDX") described in Section II[25] will apply to this Section IV, B. No other fees described in Section II will apply to this Section IV, B. The Exchange will continue to waive FLEX transaction fees for a Firm executing facilitation orders pursuant to Exchange Rule 1064 when such members are trading in their own proprietary account. The pricing in Section III, entitled "Singly Listed Options" will continue to apply to FLEX Singly Listed Options, as is the case today.[26] The Exchange assesses Options Transaction Charges for Singly Listed Options as follows: A Customer is assessed $0.35 per contract, a Specialist and Market Maker is assessed $0.40 per contract and a Professional, Firm and Broker-Dealer are assessed $0.60 per contract.

The Exchange also proposes to clarify that FLEX Options are not eligible for strategy treatment. Today, the Exchange caps certain dividend,[27] merger,[28] short stock interest[29] and reversal and conversion[30] floor option transactions. FLEX Options are not eligible for strategy treatment today. There is no mechanism today to mark FLEX Option transactions for strategy caps, therefore today FLEX Options are not eligible for strategy treatment. The Exchange proposes to clarify in the new FLEX Pricing in Section IV, Part B that FLEX Options will not be eligible for strategy treatment.

The Exchange proposes to rename Section IV, Part B, "Cancellation Fees," as Part C and also proposes to rename Section IV, Part C, "Options Regulatory Fee," as Part D.

2. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act[31] in general, and furthers the objectives of Section 6(b)(4) of the Act[32] in particular, in that it provides for an equitable allocation of reasonable fees and other charges among Exchange members and other persons using its facilities.

Customer Rebate Program

The Exchange's proposal to amend Category A of the Customer Rebate Program to pay rebates on PIXL Orders in Section II symbols for orders that are greater than 999 contracts, regardless of the contra party, is reasonable because the Exchange seeks to incentivize market participants by offering additional opportunities to earn Customer rebates on PIXL Orders.

The Exchange's proposal to amend Category A of the Customer Rebate Program to pay rebates on PIXL Orders

[15] Any member or member organization under Common Ownership with another member or member organization that qualifies for a Customer Rebate Tier discount in Section B receives the PIXL Initiating Order discount as described above.

[16] 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). *See* Rule 1000(b)(14).

[17] The term "Broker-Dealer" applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category.

[18] The term "Firm" applies to any transaction that is identified by a member or member organization for clearing in the Firm range at OCC.

[19] FLEX Option fees today are not in addition to Options Transaction Charges.

[20] The Firm Floor Options Transaction Charges is waived for the buy side of a transaction if the same member or its affiliates under Common Ownership represents both sides of a Firm transaction when such members are trading in their own proprietary account.

[21] FLEX options are only executed on the Exchange's trading floor and are not executed electronically on the Exchange.

[22] FLEX Option fees today are not in addition to Options Transaction Charges.

[23] Firms are subject to a maximum fee of $75,000 ("Monthly Firm Fee Cap"). Firm Floor Option Transaction Charges and QCC Transaction Fees, as defined in this section above, in the aggregate, for one billing month may not exceed the Monthly Firm Fee Cap per member organization when such members are trading in their own proprietary account. All dividend, merger, and short stock interest strategy executions (as defined in this Section II) are excluded from the Monthly Firm Fee Cap. Reversal and conversion strategy executions (as defined in this Section II) are included in the Monthly Firm Fee Cap. QCC Transaction Fees are included in the calculation of the Monthly Firm Fee Cap.

[24] Specialists and Market Makers are subject to a "Monthly Market Maker Cap" of $550,000 for: (i) Electronic and floor Option Transaction Charges; (ii) QCC Transaction Fees (as defined in Exchange Rule 1080(o) and Floor QCC Orders, as defined in 1064(e)); and (iii) fees related to an order or quote that is contra to a PIXL Order or specifically responding to a PIXL auction. The trading activity of separate Specialist and Market Maker member organizations is aggregated in calculating the Monthly Market Maker Cap if there is Common Ownership between the member organizations. All dividend, merger, short stock interest and reversal and conversion strategy executions (as defined in this Section II) are excluded from the Monthly Market Maker Cap.

[25] Today, the Exchange pays an Options Surcharge in BKX of $0.10 per contract for all market participants except Customers. Also, the Exchange pays an Options Surcharge in RUT, MNX and NDX of $0.15 per contract for all market participants, except Customers. As noted herein, RUT is delisted.

[26] Section III pricing includes options overlying currencies, equities, ETFs, ETNs treasury securities and indexes not listed on another exchange.

[27] A dividend strategy is defined as transactions done to achieve a dividend arbitrage involving the purchase, sale and exercise of in-the-money options of the same class, executed the first business day prior to the date on which the underlying stock goes ex-dividend.

[28] A merger strategy is defined as transactions done to achieve a merger arbitrage involving the purchase, sale and exercise of options of the same class and expiration date, executed the first business day prior to the date on which shareholders of record are required to elect their respective form of consideration, i.e., cash or stock.

[29] A short stock interest strategy is defined as transactions done to achieve a short stock interest arbitrage involving the purchase, sale and exercise of in-the-money options of the same class.

[30] Reversal and conversion strategies are transactions that employ calls and puts of the same strike price and the underlying stock. Reversals are established by combining a short stock position with a short put and a long call position that shares the same strike and expiration. Conversions employ long positions in the underlying stock that accompany long puts and short calls sharing the same strike and expiration.

[31] 15 U.S.C. 78f(b).

[32] 15 U.S.C. 78f(b)(4).

in Section II symbols for orders that are greater than 999 contracts, regardless of the contra party,[33] is equitable and not unfairly discriminatory because the Exchange will pay Customer rebates to any market participant that transacts a PIXL Order greater than 999 contracts regardless of the contra party in Section II symbols. This proposal would pay a rebate for a Customer PIXL Order in a Section II symbol for orders greater than 999 contracts regardless of whether the Customer PIXL Order is contra to an Initiating Order or a non-Initiating Order. The Exchange will apply the Category A rebate uniformly with respect to market participants transacting qualifying orders.

Section II Amendments

The Exchange's proposal to adopt new pricing for Specialists and Market Makers that are contra to a Customer Penny Pilot Options on ETFs transacted on the Exchange's floor of $0.25 per contract in addition to the Options Transaction Charges[34] in Section II of the Pricing Schedule is reasonable because the Exchange seeks to encourage more orders in Penny Pilot Options on ETFs to be delivered and executed on the Exchange's trading floor and therefore provides an opportunity for floor participants to interact with that order. Additionally, the proposed fees are in line with pricing at other options exchanges.[35] The Exchange also proposes to assess this fee in order that it may offer a rebate to the Customer on the contra-side of a Specialist and Market Maker floor transaction in a Penny Pilot Option on an ETF. The Exchange believes that paying a rebate of $0.25 per contract to Customers on the contra-side of a Specialist and Market Maker Penny Pilot Options on an ETF order will encourage market participants to send Customer Penny Pilot Options on ETFs to the Exchange's floor for execution to qualify for the rebate when they are contra to a Specialist or Market Maker order.

The Exchange's proposal to adopt new pricing for Specialists and Market Makers that are contra to a Customer Penny Pilot Options on ETFs transacted on the Exchange's trading floor of $0.25 per contract in addition to the Options Transaction Charges[36] in Section II of the Pricing Schedule is equitable and not unfairly discriminatory. Today, Customers do not pay transaction fees for Multiply Listed Penny and Non-Penny Pilot Options, so Specialists and Market Makers will continue to be assessed higher transaction fees. Also, unlike Professionals and Broker-Dealers, the Exchange provides other pricing benefits to Specialists and Market Makers such as a Monthly Market Maker Cap. Also, when comparing Specialists and Market Makers to Firms and other market participants it is important to note that Specialists and Market Makers are assessed Payment for Order Flow fees ("PFOF") when transacting Customer electronic orders, but not floor transactions. Specialists and Market Makers are assessed a higher fee in order to incentivize order flow, similar to the manner in which the PFOF[37] incentivizes order flow for electronic transactions. Specialists and Market Makers interact with that Customer order flow and benefit from it unlike other market participants.

The Exchange's proposal to pay a $0.25 per contract rebate to a Customer that is contra to a Specialist or Market Maker order in a Penny Pilot Options on an ETF transacted on the Exchange's trading floor is equitable and not unfairly discriminatory because Customer order flow is unique and such order flow attracts liquidity to the market to the benefit of all market participants. The Exchange will uniformly pay all Customers the $0.25 per contract rebate if the order is contra to a Specialist or Market Maker order in Penny Pilot Options on ETFs transacted on the Exchange's trading floor.

The Exchange's proposal to remove references to RUT in Section II of the Pricing Schedule is reasonable, equitable and not unfairly discriminatory because the Exchange delisted RUT as of April 24, 2013 and RUT is no longer traded on Phlx. The pricing is unnecessary.

Section IV Amendments

PIXL

The Exchange's proposal to amend PIXL pricing at Section IV, Part A of the Pricing Schedule to reduce the Initiating Order fee to $0.00 for a Firm that is contra to a Customer PIXL Order that is greater than 999 contracts is reasonable for the reasons stated below. The Exchange is attempting to attract PIXL order flow by incentivizing members. The Exchange believes that this amendment will encourage market participants to transact a greater number of larger sized orders in PIXL. Today, the Exchange incentivizes market participants to transact PIXL Orders by offering competitive pricing including Customer rebates in Section B of the Pricing Schedule. The Exchange is instead offering to reduce the PIXL Initiating Order Fee which is currently $0.07 or $0.05 per contract if Customer Rebate Program Threshold Volume defined in Section B is greater than 100,000 contracts per day in a month to $0.00 for a Firm that is a contra to a Customer PIXL Order which exceeds 999 contracts. The Exchange desires to incentivize Firms to offer Customer PIXL Orders with respect to large orders (greater than 999 contracts) price improvement opportunities via PIXL because Firms typically execute such large institutional orders as compared to other market participants. The proposed PIXL Initiation Order Firm Fee reduction to $0.00 per contract, when contra to a Customer PIXL Order, is similar to the manner in which the Exchange assesses transaction fees for Firm Floor Facilitation orders. Today, the Exchange waives Firm Floor Options Transaction Charges[38] for members executing facilitation orders pursuant to Exchange Rule 1064[39] when such members are trading in their own proprietary account. The Exchange waives Firm Facilitation Fees because such fees serve to encourage Firms to facilitate Customer order flow. Likewise, the Exchange seeks to similarly assess Firm fees for PIXL orders, which are electronic orders, as compared to floor

[33] Today, a PIXL Order that is contra to a non-Initiating Order interest is entitled to the Customer rebate in Section B of the Pricing Schedule.

[34] Specialists and Market Makers are assessed an Options Transaction Charge of $0.25 per contract for transacting floor trading ETFs in Penny Pilot Options. *See* Section II of the Pricing Schedule. The Exchange does not assess Payment for Order Flow fees for floor transactions. *See* Section II of the Pricing Schedule.

[35] *See* the Chicago Board Options Exchange Incorporated ("CBOE") Fees Schedule. CBOE assesses CBOE Market Makers transaction fees for floor trading of ETFs in Penny Pilot Options of $0.25 -$0.03 per contracts, depending on the number of contracts executed per month (Liquidity Provider Scale) in addition to a $0.25 per contract payment for order flow fee.

[36] Specialists and Market Makers are assessed an Options Transaction Charge of $0.25 per contract for transacting Floor ETFs in Penny Pilot Options. *See* Section II of the Pricing Schedule. The Exchange does not assess Payment for Order Flow fees for floor transactions. *See* Section II of the Pricing Schedule.

[37] The Exchange assesses a $0.25 per contract PFOF for options that are trading in the Penny Pilot Program and a $0.70 per contract fee for remaining equity options in addition to other transaction fees in Sections I and II of the Pricing Schedule with respect to Customer orders. No payment for order flow fees will be assessed on trades that are not delivered electronically. *See* Section II of the Pricing Schedule.

[38] The Exchange assesses Firm Floor Options Transaction Charges in Penny and Non-Penny Pilot Options of $0.25 per contract.

[39] Exchange Rule 1064, entitled "Crossing, Facilitation and Solicited Orders," provides at Rule 1064(b) that except as provided in paragraph 1064(e), a Floor Broker holding an options order for a public customer and a contra-side order may cross such orders in accordance with Rule 1064(a) or may execute such orders as a facilitation cross as specified in Rule 1064(b)(i)–(iii).

orders, by encouraging Firms to initiate PIXL Orders within the PIXL auction mechanism in an effort to lower execution charges by transacting with a Customer PIXL Order. When a Firm enters an Initiating Order, similar to Firm Facilitation orders on the Exchange floor, market participants are afforded an opportunity to respond to the order which should in turn generate additional responders to a PIXL auction. All market participants are eligible to respond to an Initiating PIXL Orders. Therefore, offering Firms an opportunity to deliver orders into the PIXL auction, for purposes of price improvement, benefits all market participants by incentivizing order interaction in PIXL. Also, the Exchange's proposal is similar to pricing at CBOE,[40] except the Exchange is offering to reduce the Initiating Order Fee to $0.00 for a Firm only when the Initiating Order is contra to a Customer PIXL Order that is greater than 999 contracts, otherwise there is a fee.

The Exchange's proposal to amend PIXL pricing at Section IV, Part A of the Pricing Schedule to reduce the Initiating Order fee to $0.00 for a Firm that is contra to a Customer PIXL Order that is greater than 999 contracts is equitable and not unfairly discriminatory for the reasons which follow. With respect to the increased differential as between Firms and other market participants, except Customers, who will continue to pay either the $0.07 or the $0.05 per contract Initiating Order Fee,[41] the Exchange believes that, as mentioned above, Firms typically execute such large institutional orders as compared to other market participants. Customers do not pay a fee when contra to an Initiating Order.[42] It is only in a limited circumstance where the Firm would pay no fee because the Firm Initiating Orders must be contra to a Customer PIXL Order that is greater than 999 contracts, otherwise there is a fee. Further, by assessing no fees, Firms should be incentivized to execute more orders on the Exchange. To the extent that this purpose is achieved, all of the Exchange's market participants should benefit from the improved market liquidity. Likewise, the proposal would increase the differential as between other market participants, except Customers, that would pay the $0.30 per contract PIXL Order fee when they are contra to an Initiating Order[43] and the Firm that would not pay a fee, but only in the limited circumstance that the Firm is contra to a Customer PIXL Order and that order is greater than 999 contracts. Customers do not pay a fee when contra to an Initiating Order.[44] Similar to Firm Facilitation on the Exchange's trading floor, such fees serve to encourage Firms to facilitate Customer order flow. As noted herein, Exchange seeks to encourage Firms to initiate PIXL auctions within the PIXL auction mechanism in an effort to lower execution charges by transacting with a Customer PIXL Order. When a Firm enters an Initiating Order market participants are afforded an opportunity to respond to the order which should in turn generate additional responders to a PIXL auction. All market participants are eligible to respond to an Initiating PIXL Orders. Therefore, offering Firms an opportunity to deliver orders into the PIXL auction, for purposes of price improvement, benefits all market participants by incentivizing order interaction in PIXL. Today, the differential for Firm floor facilitation is $0.25 per contract.[45] While this differential is wider, it is not applicable on all transactions but only in the limited circumstance that the Firm is contra to a Customer PIXL Order and that order is greater than 999 contracts. As explained herein, Firms typically execute such large institutional orders as compared to other market participants.

For these reasons, the Exchange believes the proposal is equitable and not unfairly discriminatory.

FLEX Pricing

The Exchange's proposal to add a new Part B to Section IV entitled "FLEX Transaction Fees" and to amend the FLEX pricing is reasonable for the reasons which follow. With respect to Multiply Listed Options the Exchange is proposing to increase the FLEX Options pricing for Professionals, Specialists, Market Makers, Broker-Dealers and Firms from $0.10 to $0.15 per contract, which should not discourage market participants from transacting FLEX Options.[46] The Exchange has not recently amended these fees. The FLEX Options are transacted on the Exchange's trading floor and the process is not automated. Exchange staff is involved in the process of processing requests for FLEX Orders and costs associated with the Exchange's trading floor have risen over the years. The Exchange believes that the increase will assist the Exchange in offsetting costs while keeping such costs competitive with other markets. The Exchange believes that its proposal to amend the Multiply Listed Options FLEX pricing is equitable and not unfairly discriminatory because the Exchange is assessing the same fees for Multiply Listed Options on all market participants, except Customers. Customers traditionally are not assessed transaction fees because Customer orders bring valuable liquidity to the market. The Exchange believes that the cost to transact FLEX Options remains competitive with costs at other options Exchanges.[47]

The Exchange is not otherwise proposing to amend its treatment of FLEX pricing. As is the case today, the Monthly Firm Fee Cap, the Monthly Market Maker Cap and the Options Surcharges in BKX, MNX and NDX will continue to apply. Also, the Exchange is not amending the FLEX pricing for Singly Listed Options, which will continue to be assessed the pricing in Section III of the Pricing Schedule. The Exchange will also continue to waive FLEX transaction fees for a Firm when such members are trading in their own proprietary accounts pursuant to Exchange Rule 1064, as is the case today. The Exchange's proposal to clarify that FLEX Options are not eligible for strategy treatment is reasonable, equitable and not unfairly discriminatory because today market participants may not mark a FLEX Option as eligible for a strategy transaction. The Exchange believes that adding a clarifying sentence to specifically state that FLEX Options will not qualify for strategy treatment will clarify the Pricing Schedule to the benefit of all market participants.

[40] For facilitation orders on CBOE, other than SPX, SPXpm, SRO, VIX or other volatility indexes, OEX or XEO, no Clearing Trading Permit Holder Proprietary transaction fees are assessed to a Firm. CBOE defines facilitation orders as any paired order in which a Clearing Trading Permit Holder (F) origin code is contra to any other origin code, provided the same executing broker and clearing firm are on both sides of the order) executed in AIM, open outcry, or as a QCC or FLEX transaction. *See* CBOE's Fees Schedule.

[41] The Initiating Order Fee is $0.07 per contract or $0.05 per contract depending on whether the Customer Rebate Program Threshold Volume defined in Section B is greater than 100,000 contracts per day in a month.

[42] *See* Section IV, Part A of the Pricing Schedule.

[43] Section IV, Part A of the Pricing Schedule provides when the PIXL Order is contra to the Initiating Order a Customer PIXL Order will be assessed $0.00 and all non-Customer market participant PIXL Orders will be assessed $0.30 per contract when contra to the Initiating Order for PIXL Order executions in Section I, Select Symbols, as well as in Section II, Multiply Listed Options.

[44] *See* Section IV, Part A of the Pricing Schedule.

[45] All market participants, except Customers, are assessed a Penny Pilot Option and Non-Penny Pilot Option Transaction Charge of $0.25 per contract for floor transactions. *See* Section II of the Pricing Schedule.

[46] FLEX Transaction Customer Fees for Multiply Listed Orders on the Exchange's trading floor will continue to be assessed fee for transacting FLEX Options

[47] *See* CBOE's Fees Schedule.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that its proposal to amend Category A of the Customer Rebate Program does not impose an undue burden on competition because the Exchange is offering to pay Customer rebates on PIXL Orders greater than 999 contracts regardless of the contra party for all market participants. The Exchange believes that assessing additional fees to Specialists and Market Makers does not create an undue burden on competition because the Exchange is proposing to offer Customers a rebate which should attract Customer order flow to the benefit of Specialists, Market Makers and other market participants that interact with such order flow. Today, the Exchange assesses Specialists and Market Makers PFOF for electronic transaction to similarly attract order flow to the Exchange when the Specialist and Market Maker are contra to a Customer order.

The PIXL pricing is proposed to incentivize Firms to bring Initiating Orders to a PIXL auction. The Exchange does not believe that the proposed PIXL pricing creates an undue burden on competition, but rather encourages competition among market participants to price improve the order. Other market participants may respond to a PIXL Initiating Order. The Exchange does not believe that the differentials created as between Firms and other market participants, in terms of the cost of participating in a PIXL transaction, while greater, creates an undue burden on competition because the Firm Initiating Order Fee will only be reduced in limited circumstances and most likely by a Firm. By reducing the Initiating Order Fee for a Firm in these limited circumstances, the Exchange is incentivizing Firms to execute more orders on the Exchange. To the extent that this purpose is achieved, all of the Exchange's market participants should benefit from the improved market liquidity.

The FLEX pricing in Multiply Listed Options is the same pricing for all market participants except Customers, who are not assessed FLEX Options transaction fees in Multiply Listed Options because Customer order brings liquidity to the market which benefits all market participants. The Exchange does not believe that the FLEX pricing creates an undue burden on competition.

The Exchange operates in a highly competitive market, comprised of eleven exchanges, in which market participants can easily and readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or rebates to be inadequate. Accordingly, the fees that are assessed and the rebates paid by the Exchange described in the above proposal are influenced by these robust market forces and therefore must remain competitive with fees charged and rebates paid by other venues and therefore must continue to be reasonable and equitably allocated to those members that opt to direct orders to the Exchange rather than competing venues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[48] 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–Phlx–2013–49 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–2013–49. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2013–49 and should be submitted on or before June 5, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[49]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–11520 Filed 5–14–13; 8:45 am]

BILLING CODE 8011–01–P

[48] 15 U.S.C. 78s(b)(3)(A)(ii).

[49] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69543; File No. SR–FINRA–2013–021]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to an Extension of the Implementation Date for FINRA Rule 5270 (Front Running of Block Transactions)

May 9, 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 May 2, 2013, Financial Industry Regulatory Authority, Inc. ("FINRA") 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 FINRA. FINRA has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (f)(6) of Rule 19b-4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to establish September 3, 2013, as the implementation date of FINRA Rule 5270 (Front Running of Block Transactions) that the Commission approved on September 4, 2012.[4] The proposed rule change adopted NASD Interpretive Material ("IM") 2110–3 (Front Running Policy) as FINRA Rule 5270 with certain changes, including broadening the rule's scope and providing further clarity into trading activity that FINRA believes is inconsistent with just and equitable principles.

The proposed rule change does not make any changes to the text of FINRA rules.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] *See* Securities Exchange Act Release No. 67774 (September 4, 2012), 77 FR 55519 (September 10, 2012) (Order Approving SR–FINRA–2012–025) ("Approval Order").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA 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. FINRA 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

FINRA is filing the proposed rule change to establish September 3, 2013, as the implementation date for FINRA Rule 5270 regarding front running.

On September 4, 2012, the SEC approved SR–FINRA–2012–025, which adopted NASD IM–2110–3 as FINRA Rule 5270 in the Consolidated FINRA Rulebook[5] with certain changes, including broadening the rule's scope and providing further clarity into trading activity that FINRA believes is inconsistent with just and equitable principles.[6] On December 3, 2012, FINRA published *Regulatory Notice* 12–52 announcing that the Commission approved the proposed rule change and announcing an implementation date of June 1, 2013.

Since the publication of the *Notice*, many firms and industry groups have requested that the implementation date for Rule 5270 be delayed to allow firms sufficient time to make necessary systems updates and changes. Firms have noted that, because of the expansion of the rule to include a wider range of securities and other related financial instruments,[7] existing vendor systems and internally-developed controls cannot easily be revised to include the expanded securities and instruments covered by the rule. Firms are also reconsidering, and in some cases adjusting, the scope of existing information barriers to account for the broader scope of the rule as well as implementing education and training programs. Although FINRA has stated, and firms recognize, that the underlying conduct addressed in Rule 5270 is largely covered by existing FINRA rules, FINRA understands the need for firms to adjust their training, education, and internal surveillance programs in an effort to successfully comply with the expansion of Rule 5270. As a result of these discussions, and the comment letter discussed in Item 5 below,[8] FINRA is seeking to delay the implementation of Rule 5270 until September 3, 2013, to give firms sufficient time to make necessary changes to their programs and systems to enable them to review their trading activity for compliance with the rule.[9] FINRA stresses, however, that much of the trading activity prohibited by Rule 5270 may already violate other existing FINRA rules.

FINRA has filed the proposed rule change for immediate effectiveness.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[10] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that extending the implementation date will ensure that firms have sufficient time to make the necessary changes to their systems to be able to effectively surveil their trading activity in the securities and financial instruments that are subject to the rule. Extending the implementation date by three months will also ensure firms have sufficient time to complete the assessment of their existing information barriers and any needed training or education. FINRA notes that members are already under an existing obligation to prevent the front running of customer orders under other FINRA rules and that these rules will continue to apply to members' trading

[5] The current FINRA rulebook consists of (1) FINRA Rules; (2) NASD Rules; and (3) rules incorporated from NYSE ("Incorporated NYSE Rules") (together, the NASD Rules and Incorporated NYSE Rules are referred to as the "Transitional Rulebook"). While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE. The FINRA Rules apply to all FINRA members, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, *see Information Notice*, March 12, 2008 (Rulebook Consolidation Process).

[6] *See* Approval Order, *supra* note 4.

[7] FINRA Rule 5270(c) defines a "related financial instrument" as "any option, derivative, security-based swap, or other financial instrument overlying a security, the value of which is materially related to, or otherwise acts as a substitute for, such security, as well as any contract that is the functional economic equivalent of a position in such security."

[8] The Commission notes that Item 5 is discussed in the filing, not this Notice.

[9] FINRA does not anticipate providing further extensions beyond September 3, 2013.

[10] 15 U.S.C. 78*o*–3(b)(6).

activity notwithstanding the extension of the implementation date for Rule 5270.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA 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. Because the proposed rule change does not amend FINRA rules and merely extends the implementation date for Rule 5270. FINRA does not believe the proposed rule change imposes any unnecessary or inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Securities Industry and Financial Markets Association ("SIFMA") submitted a written request to FINRA for a three-month extension of the implementation date for Rule 5270.[11] A copy of the SIFMA Letter is attached as Exhibit 2.[12]

In its letter, SIFMA represents that, since Rule 5270 was approved, its members "have been actively working to update their policies and are expanding and implementing robust education and training programs."[13] SIFMA states that, notwithstanding these efforts, because "existing vendor [surveillance] systems and internally-developed controls cannot easily be revised to the new, expanded product set" covered by Rule 5270, firms may not be able to implement the needed systems changes by June 1, 2013.[14] In particular, the expansion of firms' surveillance and supervision systems to include other product areas, in particular fixed income securities and OTC products, may not be completed by June 1, 2013.[15] SIFMA also represents that the implementation of certain provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act, particularly those under Title VII, are affecting many of the same systems implicated by Rule 5270.[16] As a result of these factors, SIFMA requested that FINRA extend the implementation date of Rule 5270 by three months. SIFMA acknowledges, however, that "during this period member firms are, and would continue to be, under an existing obligation to prevent the frontrunning of customer orders" and that "much of the trading activity prohibited by new Rule 5270 may already violate existing FINRA Rules."[17]

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[18] and Rule 19b–4(f)(6) thereunder.[19]

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–FINRA–2013–021 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–FINRA–2013–021. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of FINRA. 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–FINRA–2013–021, and should be submitted on or before June 5, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Kevin M. O'Neill,

Deputy Secretary.

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[11] *See* Letter from Sean Davy, Managing Director, Corporate Credit Markets Division, SIFMA, to Brant K. Brown, Associate General Counsel, Office of General Counsel, FINRA (April 22, 2013) ("SIFMA Letter").

[12] The Commission notes that Exhibit 2 is attached to the filing, not this Notice.

[13] *Id.* at 1.

[14] *Id.*

[15] *Id.*

[16] *Id.* at 2.

[17] *Id.*

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69547; File No. SR–Phlx–2013–48]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Fees and Rebates Applicable to Qualified Contingent Cross Orders

May 9, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4[2] thereunder, notice is hereby given that on May 1, 2013, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 fees and rebates applicable to Qualified Contingent Cross ("QCC") orders.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.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.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend fees and rebates applicable to both electronic QCC Orders ("eQCC") [3] and Floor QCC Orders [4] (collectively "QCC Orders"). The Exchange believes that the proposed amendments to its pricing for QCC Orders will enable the Exchange to attract additional QCC Orders by increasing the amount of rebates paid for certain increased thresholds and eliminating service fees on QCC Orders.

Today, the Exchange pays rebates on QCC Orders based on the following five tier rebate schedule:

Threshold	Rebate per contract
0 to 199,999 contracts in a month	$0.00
200,000 to 499,999 contracts in a month	0.01
500,000 to 699,999 contracts in a month	0.05
700,000 to 999,999 contracts in a month	0.07
Over 1,000,000 contracts in a month	0.11

Today, the Exchange pays a rebate on all qualifying executed QCC Orders, as defined in Exchange Rule 1080(o) and Floor QCC Orders, as defined in 1064(e), except where the transaction is either: (i) Customer-to-Customer; or (ii) a dividend,[5] merger,[6] short stock interest [7] or reversal or conversion strategy [8] execution. Today, the maximum rebate the Exchange will pay in a given month for QCC Orders is $275,000. Today, QCC Transaction Fees for a Specialist,[9] Market Maker,[10] Professional,[11] Firm[12] and Broker-Dealer [13] are $0.20 per contract.

The Exchange will continue to pay rebates on QCC Orders for all qualifying executed QCC Orders, as defined in Exchange Rule 1080(o) and Floor QCC Orders, as defined in 1064(e), except where the transaction is either: (i) Customer-to-Customer; or (ii) a dividend, merger, short stock interest or reversal or conversion strategy executions.

The Exchange proposes to amend the QCC Rebate Schedule by increasing the Tier 1 threshold of 0 to 199,999 to 0 to 299,999. The Exchange will continue to not pay a rebate for a QCC Order for Tier 1. The Exchange proposes to amend the Tier 2 threshold from 200,000 to 499,999 to 300,000 to 499,999 and also increase the Tier 2 rebate from $0.01 to $0.07 per contract. The Exchange proposes to amend the Tier 3 threshold of 500,000 to 699,999 by increasing the Tier 3 rebate from $0.05 to $0.08 per contract. The Exchange proposes to amend Tier 4, which has a threshold of 700,000 to 999,999, by increasing the current rebate from $0.07 to $0.09 per contract. The Exchange does not propose to amend the Tier 5 threshold of over 1,000,000 contracts in a month or rebate of $0.11 per contract.

Additionally, the Exchange proposes to amend the maximum QCC Rebate that the Exchange pays in a given month. Today, the maximum QCC Rebate that the Exchange pays in a given month is $275,000. The Exchange proposes to increase the maximum QCC Rebate to $375,000.

As mentioned herein, QCC Transaction Fees for a Specialist, Market Maker, Professional, Firm and Broker-Dealer are $0.20 per contract. The Exchange does not propose to amend this fee.

The Exchange proposes to eliminate certain Service Fees associated with QCC Orders. Today, for QCC Orders as defined in Exchange Rule 1080(o), and

[3] A QCC Order is comprised of an order to buy or sell at least 1000 contracts that is identified as being part of a qualified contingent trade, as that term is defined in Rule 1080(o)(3), coupled with a contra-side order to buy or sell an equal number of contracts. The QCC Order must be executed at a price at or between the National Best Bid and Offer and be rejected if a Customer order is resting on the Exchange book at the same price. A QCC Order shall only be submitted electronically from off the floor to the PHLX XL II System. *See* Rule 1080(o). *See also* Securities Exchange Act Release No. 64249 (April 7, 2011), 76 FR 20773 (April 13, 2011) (SR–Phlx–2011–47) (a rule change to establish a QCC Order to facilitate the execution of stock/option Qualified Contingent Trades ("QCTs") that satisfy the requirements of the trade through exemption in connection with Rule 611(d) of the Regulation NMS).

[4] A Floor QCC Order must: (i) be for at least 1,000 contracts, (ii) meet the six requirements of Rule 1080(o)(3) which are modeled on the QCT Exemption, (iii) be executed at a price at or between the National Best Bid and Offer ("NBBO"); and (iv) be rejected if a Customer order is resting on the Exchange book at the same price. In order to satisfy the 1,000-contract requirement, a Floor QCC Order must be for 1,000 contracts and could not be, for example, two 500-contract orders or two 500-contract legs. *See* Rule 1064(e). *See also* Securities Exchange Act Release No. 64688 (June 16, 2011), 76 FR 36606 (June 22, 2011) (SR–Phlx–2011–56).

[5] A dividend strategy is defined as transactions done to achieve a dividend arbitrage involving the purchase, sale and exercise of in-the-money options of the same class, executed the first business day prior to the date on which the underlying stock goes ex-dividend. *See* Section II of the Pricing Schedule.

[6] A merger strategy is defined as transactions done to achieve a merger arbitrage involving the purchase, sale and exercise of options of the same class and expiration date, executed the first business day prior to the date on which shareholders of record are required to elect their respective form of consideration, i.e., cash or stock. *See* Section II of the Pricing Schedule.

[7] A short stock interest strategy is defined as transactions done to achieve a short stock interest arbitrage involving the purchase, sale and exercise of in-the-money options of the same class. *See* Section II of the Pricing Schedule.

[8] Reversal and conversion strategies are types of transactions that employ calls and puts of the same strike price and the underlying stock. Reversals are established by combining a short stock position with a short put and a long call position that shares the same strike and expiration. Conversions employ long positions in the underlying stock that accompany long puts and short calls sharing the same strike and expiration. *See* Section II of the Pricing Schedule.

[9] A "Specialist" is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

[10] A "Market Maker" includes Registered Options Traders (Rule 1014(b)(i) and (ii)), which includes Streaming Quote Traders (*see* Rule 1014(b)(ii)(A)) and Remote Streaming Quote Traders (*see* Rule 1014(b)(ii)(B)). Directed Participants are also market makers.

[11] 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). *See* Rule 1000(b)(14).

[12] The term "Firm" applies to any transaction that is identified by a member or member organization for clearing in the Firm range at OCC.

[13] The term "Broker-Dealer" applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category.

Floor QCC Orders, as defined in 1064(e), a Service Fee of $0.07 per side is assessed to a Specialist or Market Maker that has reached the Monthly Market Maker Cap.[14] The $0.07 Service Fee applies to every contract side of a QCC Order and Floor QCC Order after a Specialist or Market Maker has reached the Monthly Market Maker Cap, except for reversal and conversion strategies executed via QCC. The Service Fee is not assessed to a Specialist or Market Maker that does not reach the Monthly Market Maker Cap in a particular calendar month. The Exchange proposes to eliminate the Service Fee of $0.07 per side.

Further, today for QCC Orders as defined in Exchange Rule 1080(o), and Floor QCC Orders, as defined in 1064(e), a Service Fee of $0.01 per side applies once a Firm has reached the Monthly Firm Fee Cap,[15] except for reversal and conversion strategies executed via QCC. This $0.01 Service Fee applies to every contract side of a QCC Order and Floor QCC Order after a Firm has reached the Monthly Firm Fee Cap. The Service Fee is not assessed to a Firm that does not reach the Monthly Firm Fee Cap in a particular calendar month. The Exchange proposes to eliminate the Service Fee of $0.01 per side. Once a Specialist or Market Maker reaches the Monthly Market Maker Cap or a Firm reaches the Monthly Firm Fee Cap in a given month those market participants would not be assessed transaction fees, including the $0.20 per contract QCC Transaction Fee.

The Exchange proposes to insert tier numbers into the QCC Rebate Schedule for ease of reference to identify each rebate tier.

2. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act [16] in general, and furthers the objectives of Section 6(b)(4) of the Act,[17] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

The Exchange believes that it is reasonable to amend the QCC Rebate Schedule to increase the threshold in Tier 1 (from 0 to 199,999 to 0 to 299,999) and 2 (from 200,000 to 499,999 to 300,000 to 499,999) because the Exchange is seeking to encourage market participants to transact a greater number of QCC Orders. Today, a market participant does not receive a rebate for transacting less than 200,000 contracts today. With this proposal, the threshold is increased so that a market participant does not receive a rebate for transacting less than 300,000 contracts. The Exchange is also proposing to increase all rebates in Tiers 2, 3, and 4. The Tier 2 is being increased from $0.01 to $0.07 per contract, the Tier 3 rebate is being increased from $0.05 to $0.08 per contract and the Tier 3 rebate is being increased from $0.07 to $0.09 per contract. The Exchange believes that increasing the rebates offered for transacting QCC Orders will incentivize market participants to transact a greater number of QCC Orders. The Exchange believes that the amendments to the QCC Rebate Schedule are equitable and not unfairly discriminatory because the Exchange is proposing to uniformly increase the rebates for all qualifying market participants.

The Exchange's proposal to increase the maximum QCC Rebate that the Exchange will pay in a given month from $275,000 to $375,000 is reasonable because this proposal should encourage market participants to transact a greater number of QCC Orders in order to obtain higher rebates. The Exchange's proposal to increase the maximum QCC Rebate that the Exchange will pay in a given month from $275,000 to $375,000 is equitable and not unfairly discriminatory because the Exchange is increasing the maximum for any market participant that transacts QCC Orders and qualifies for rebates. All market participants are eligible to transact QCC Orders.

The Exchange believes that eliminating the Service Fees applicable to QCC Orders when the Specialist or Market Maker has reached the Monthly Market Maker Cap ($0.07 Service Fee) or when a Firm has reached the Monthly Firm Fee Cap ($0.01 Service Fee) is reasonable because it should also incentivize Specialists, Market Makers and Firms to transact a greater number of QCC Orders because no Service Fee will be assessed once the applicable monthly cap has been reached by these market participants.

The Exchange believes that the elimination of the Service Fees is equitable and not unfairly discriminatory because the Exchange is proposing to uniformly not assess a Service Fee on QCC Transactions to any market participant. Today, only Specialists, Market Makers and Firms are assessed Service Fees on QCC Orders and those Service Fees are being eliminated. By eliminating the Services Fees applicable to QCC Orders when the Specialist or Market Maker has reached the Monthly Market Maker Cap ($0.07 Service Fee) or when a Firm has reached the Monthly Firm Fee Cap ($0.01 Service Fee), the Exchange would not assess transaction fees to Specialists, Market Makers and Firms once the respective caps are reached by these market participants. Customers are not assessed transaction fees in Sections I or II of the Pricing Schedule because Customer order flow brings unique benefits to the market which in turn benefits all market participants. For this reason, there is no need to cap Customer transaction fees. Also, members receive rebates for qualifying Customer transactions pursuant to the Customer Rebate Program in Section B of the Pricing Schedule. A Professional and Broker Dealer will be assessed transaction fees on all transactions, because today these market participants' fees are not capped. The Exchange believes that it is equitable and not unfairly discriminatory to cap transaction fees for Specialists and Market Makers and not have them pay the additional $0.07 per contract Service Fee on QCC Orders above the Monthly Market Maker Cap, thereby increasing the differential between these market participants and other market participants not subject to a cap (Professionals and Broker-Dealers) because Specialists and Market Makers have burdensome quoting obligations [18] to the market which do not apply to Customers, Professionals, Firms and Broker-Dealers. In addition, Specialists and Market Makers are subject to

[14] Specialists and Market Makers are subject to a "Monthly Market Maker Cap" of $550,000 for: (i) Electronic and floor Option Transaction Charges; (ii) QCC Transaction Fees (as defined in Exchange Rule 1080(o) and Floor QCC Orders, as defined in 1064(e)); and (iii) fees related to an order or quote that is contra to a PIXL Order or specifically responding to a PIXL auction. The trading activity of separate Specialist and Market Maker member organizations is aggregated in calculating the Monthly Market Maker Cap if there is Common Ownership between the member organizations. All dividend, merger, short stock interest and reversal and conversion strategy executions (as defined in this Section II) are excluded from the Monthly Market Maker Cap.

[15] Firms are subject to a maximum fee of $75,000 ("Monthly Firm Fee Cap"). Firm Floor Option Transaction Charges and QCC Transaction Fees, as defined in this section above, in the aggregate, for one billing month may not exceed the Monthly Firm Fee Cap per member organization when such members are trading in their own proprietary account. All dividend, merger, and short stock interest strategy executions (as defined in this Section II) are excluded from the Monthly Firm Fee Cap. Reversal and conversion strategy executions (as defined in this Section II) are included in the Monthly Firm Fee Cap. QCC Transaction Fees are included in the calculation of the Monthly Firm Fee Cap.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(4).

[18] *See* Exchange Rule 1014 entitled "Obligations and Restrictions Applicable to Specialists and Registered Options Traders."

Payment for Order Flow Fees [19] whereas Customers, Professionals, Firms and Broker-Dealers are not subject to such fees. With respect to Firms, the Exchange today caps Firm transaction fees. This proposal would no longer assess the $0.01 per contract Service Fee for QCC Orders above the Monthly Firm Cap. While the elimination of the Service Fees will increase the differential that exists today between Firms as compared to Professionals and Broker-Dealers, as is also the case with Specialists and Market Makers that will no longer pay Service Fees above the Monthly Market Maker Cap, the Exchange notes that today Firms, Specialists and Market Makers do not pay transaction fees once they have reached the applicable cap for other types of non-QCC transactions. Today, the Exchange only assesses Service Fees for QCC Orders because these fees provided the Exchange the means to defray costs incurred in providing the qualified contingent cross capability and allowed the Exchange to offer rebates to incentivize trading. At this time, the Exchange desires to assess no Service Fees for QCC Orders similar to other transactions. With respect to Firms, the Exchange today provides a similar incentive in terms of a reduction of fees for Firm electronic Options Transaction Charges in Penny Pilot and Non-Penny Pilot Options, provided the Firm has achieved certain volume requirements.[20] Finally, the differential created by the elimination of the Service Fee above the Monthly Firm Cap as between Firms and Professionals and Broker-Dealer is within the range of other differentials today on the Exchange's Pricing Schedule [21] and at other options exchanges.[22]

The Exchange believes that adding the tier references to the QCC Rebate Schedule is reasonable, equitable and not unfairly discriminatory because it would add clarity to the Pricing Schedule.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that its proposal to increase the threshold quantities in Tiers 2 and 3 and also increase the rebates paid for Tiers 2, 3 and 4 does not impose a burden on competition. The Exchange's proposal should continue to encourage market participants to transact a greater number of QCC Orders in order to obtain a rebate and because the Exchange is also increasing the maximum QCC Rebate number, that rebate could be larger than it is today.

The Exchange's proposal to eliminate the Service Fees for QCC Orders which is currently applied to Specialists, Market Makers and Firms when they exceed the applicable monthly cap also does not impose a burden on competition because the Exchange is eliminating a Service Fee for QCC Orders which only applied to these market participants and not Customers, Professionals and Broker-Dealers. With this proposal, no market participant would be assessed a Service Fee for QCC Orders. With respect to the increased differentials as between Firms, Specialists and Market Makers as compared to other market participants, which are created by eliminating Service Fees, the Exchange believes that the differentials are in line with other differentials that exist today on Phlx and at other options exchanges.[23] The differentials compensate Specialists and Market Makers for their role in the marketplace as well as their burdens.[24] Likewise, the differential as between Firms as compared to Professionals and Broker-Dealers is in line with other differentials that exist today between these market participants on the Exchange's trading floor.[25] By offering Firms lower fees or caps in certain circumstances, the Exchange is encouraging Firms to send order flow to the Exchange. The Exchange does not believe that the elimination of the Service Fees creates an undue burden on competition but rather treats QCC Orders similar to other transactions where caps also apply and differentials exist between market participants.

The Exchange operates in a highly competitive market, comprised of eleven exchanges, in which market participants can easily and readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or rebates to be inadequate. Accordingly, the fees that are assessed and the rebates paid by the Exchange, as described in the proposal, are influenced by these robust market forces and therefore must remain competitive with fees charged and rebates paid by other venues and therefore must continue to be reasonable and equitably allocated to those members that opt to direct orders to the Exchange rather than competing venues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[26] 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.

[19] Payment for Order Flow Fees are assessed as follows: $.25 per contract for options that are trading in the Penny Pilot Program and $.70 per contract for other equity options. *See* Section II of the Pricing Schedule. Payment for Order Flow Fees are assessed on transactions resulting from Customer orders and are available to be disbursed by the Exchange according to the instructions of the Specialist units/Specialists or Directed ROTs to order flow providers who are members or member organizations, who submit, as agent, customer orders to the Exchange or non-members or non-member organizations who submit, as agent, Customer orders to the Exchange through a member or member organization who is acting as agent for those Customer orders. Specialists and Directed ROTs who participate in the Exchange's payment for order flow program are assessed a Payment for Order Flow Fee, in addition to ROTs. Therefore, the Payment for Order Flow Fee is assessed, in effect, on equity option transactions between a Customer and an ROT, a Customer and a Directed ROT, or a Customer and a Specialist. A ROT or "Registered Options Trader" is defined in Exchange Rule 1014(b) as a regular member of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. A ROT includes a Streaming Quote Trader ("SQT"), a Remote Streaming Quote Trader ("RSQT") and a Non-SQT, which by definition is neither a SQT or a RSQT. *See* Exchange Rule 1014(b)(i) and (ii).

[20] Firm electronic Options Transaction Charges in Penny Pilot and non-Penny Pilot Options are reduced to $0.17 per contract for a given month provided that a Firm has volume greater than 500,000 electronically-delivered contracts in a month ("Electronic Firm Fee Discount").

[21] Today, when a Firm reaches the Monthly Firm Cap, the differential that exists for as between a Professional or Broker-Dealer for a floor transaction and a Firm is $0.25 as Professionals and Broker-Dealers are assessed a Floor Options Transaction Charge of $0.25 per contract.

[22] CBOE currently assesses a Clearing Trading Permit Holder Proprietary an equity options fee of $.20 per contract and a Broker-Dealer electronic order an equity options fee of $.45 per contract. *See* CBOE's Fees Schedule.

[23] *See* notes 21 and 22.

[24] *See* note 18.

[25] *See* note 21.

[26] 15 U.S.C. 78s(b)(3)(A)(ii).

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–2013–48 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–2013–48. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2013–48 and should be submitted on or before June 5, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–11519 Filed 5–14–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69551; File No. SR–BOX–2013–25]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend BOX Rules 5050, 7050, and 7240

May 9, 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 May 8, 2013, BOX Options Exchange LLC ("BOX" 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 amend BOX Rules 5050(e) (Jumbo SPY Options), 7050 (Minimum Trading Increments) and 7240 (Complex Orders). The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com*.

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 self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange received approval to list and trade option contracts overlying 1,000 shares of the SPDR® S&P® 500 Exchange-Traded Fund ("SPY")[3] or ("Jumbo SPY Options").[4] Whereas standard options contracts represent a deliverable of 100 shares of an underlying security, this product represents 1,000 SPY shares. Except for the difference in the number of deliverable shares, Jumbo SPY Options have the same terms and contract characteristics as regular-sized options contracts ("standard options"), including exercise style. Accordingly, the Commission noted in the approval order that the Exchange's rules that apply to the trading of standard options would apply to Jumbo SPY Options as well.[5] Prior to the launch of these non-standard contracts, the Exchange proposes to amend the BOX Rules to (1) Permit the minimum trading increment for Jumbo SPY Options to be the same as the minimum trading increment permitted for standard SPY options, (2) codify the minimum contract threshold requirement for the execution of Jumbo SPY Options in the Exchange's Facilitation and Solicitation Auctions, (3) provide that while Participants may execute complex orders involving Jumbo SPY Options, if any leg of a complex order is a Jumbo SPY Option, all options legs of such orders must also be Jumbo SPY Options[6] and (4) clarify the eligibility of Jumbo SPY Options in the Price Improvement Period "PIP", as well as the market maker appointments and quoting obligations for Jumbo SPY Options. The Exchange notes that this filing is based on similar proposals filed by BOX as part of the launch of "Mini Options," which are non-standard option contracts overlying 10 shares of a security.[7]

[27] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] "SPDR®," "Standard & Poor's®," "S&P®," "S&P 500®," and "Standard & Poor's 500" are registered trademarks of Standard & Poor's Financial Services LLC. The SPY ETF represents ownership in the SPDR S&P 500 Trust, a unit investment trust that generally corresponds to the price and yield performance of the SPDR S&P 500 Index.

[4] *See* Securities Exchange Act Release No. 69511 (May 03, 2013), 78 FR 27271 (May 9, 2013) (Order Approving SR–BOX–2013–06).

[5] *Id.*

[6] *Id.*

[7] *See* Securities Exchange Act Release Nos. 69154 (March 15, 2013), 78 FR 17741 (March 22, 2013) (Notice of Filing and Immediate Effectiveness of SR–BOX–2013–14); 69240 (March 26, 2013), 78 FR

Minimum Price Variation

First, the Exchange proposes to amend BOX Rule 5050(e) (Jumbo SPY Options) and 7050 (Minimum Trading Increments) to permit the minimum trading increment for Jumbo SPY to be the same as the minimum trading increment permitted for standard SPY options.

Currently, the Exchange is only approved to list Jumbo SPY Options and standard SPY options are part of the Exchange's Penny Pilot Program.[8] Under the Penny Pilot Program, with the exception of three classes,[9] the minimum price variation for all participating options classes 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. The minimum trading increment for standard SPY options, which is not subject to a price test, is $0.01 across all option series. In the absence of the Penny Pilot Program the minimum price increment would be $0.05 for quotations in options series that were quoted at less than $3 per contract and $0.10 for quotations in options series that were quoted at $3 per contract or greater.

This proposed rule change will permit the minimum trading increment for Jumbo SPY to be identical to the minimum trading increment applicable to standard options on SPY. The Exchange believes having different trading increments for Jumbo SPY than those permitted for standard options on SPY would be detrimental to the success of this new product offering and would also lead to investor confusion.

The Exchange notes that in limiting Jumbo options to only Jumbo SPY Options; the Exchange selected an underlying security with a high price and extremely liquid options market. Jumbo SPY Options are a natural extension to the options overlying SPY and therefore should retain the most important characteristic, *i.e.*, trading increments. The Exchange believes that by reducing the minimum trading increments for Jumbo SPY Options to $0.01, the proposed rule change will provide market participants with meaningful trading opportunities in this product. Further, quoting and trading in $0.01 increments will enable market participants to trade Jumbo SPY Options with greater precision as to price. Providing these more refined increments will permit the Exchange's Market Makers the opportunity to provide better fills (meaning less spread than the current wider minimum increments rules allow) to customers. Therefore, the Exchange proposes to amend its rules to permit the listing and trading of Jumbo SPY Options [sic] $0.01 increments, the same increment permitted for standard options on SPY. However, the Exchange notes even though this proposed rule change would permit the trading of Jumbo SPY Options in narrower increments, they would not be considered part of the Penny Pilot Program.

The Exchange's proposal to quote and trade certain option classes that are outside of the Penny Pilot Program in $0.01 increments is not novel. Specifically, the Commission recently permitted BOX and other exchanges to set the minimum price variation for Mini Option as the same as standard options on the same underlying security.[10]

In support of this proposed rule change, the Exchange proposes to amend BOX Rules 7050 and 5050(e). In Rule 7050, the Exchange proposes to add new subsection (d) to provide that the minimum trading increment for Jumbo SPY Options shall be determined in accordance with new subsection (4) to Rule 5050(e). Proposed subsection (4) to Rule 5050(e) will provide that the minimum trading increment for Jumbo SPY Options shall be the same as the minimum trading increment permitted for standard options on SPY.

With regard to the impact of this proposal on system capacity, the Exchange represents that it and the Options Price Reporting Authority have the necessary systems capacity to handle the potential additional traffic associated with this proposal. The Exchange does not believe that this increased traffic will become unmanageable since Jumbo SPY Options are limited to a single underlying security.

Facilitation and Solicitation Auctions

The Exchange proposes to amend Rule 5050(e) (Jumbo SPY Options) to codify the minimum contract threshold requirement for the execution of Jumbo SPY Options in the Exchange's Facilitation and Solicitation Auctions. The Facilitation Auction is a process by which an OFP can attempt to execute a transaction wherein the OFP seeks to facilitate a block-size order it represents as agent ("Agency Order"), and/or a transaction wherein the OFP solicited interest to execute against an Agency Order. OFPs must be willing to execute the entire size of Agency Orders entered into the Facilitation Auction through the submission of a contra "Facilitation Order".[11] Block-size orders are orders for fifty (50) or more contracts.[12] The Solicitation Auction is a process by which an OFP can attempt to execute orders of 500 or more contracts it represents as agent (the "Agency Order") against contra orders that it has solicited ("Solicited Order").[13] Each Agency Order entered into the Solicitation Auction shall be all-or-none. The minimum contract threshold required for the Facilitation Auction and the Solicitation Auction applies to option contracts that overlie 100 shares and therefore does not currently apply to Jumbo options.

The Exchange proposes to add a new subsection (5) to Rule 5050(e) to adjust the minimum contract threshold for executing Jumbo SPY Options in the Facilitation Auction and Solicitation Auction to 1/10th their current requirement. Thus, Jumbo SPY Options executed in the Facilitation Auction must be for five (5) or more Jumbo option contracts, and Jumbo SPY Options executed in the Solicitation Auction must be for fifty (50) or more Jumbo Option contracts.

The Exchange believes it is appropriate to adjust the minimum contract threshold for Jumbo SPY Options so they are equivalent (same number of underlying securities) to the minimum contract threshold required for standard options that are executed in the Facilitation and Solicitation Auctions. The Exchange believes that adjusting the minimum contract threshold will remove any confusion on the part of market participants that want to use these Exchange functionalities to execute Jumbo SPY Options.

Complex Orders

The Exchange proposes to amend Rule 7240 (Complex Orders) to provide

19562 (April 1, 2013) (Notice of Filing and Immediate Effectiveness of SR–BOX–2013–18) and 69512 (May 3, 2013) (Notice of Filing and Immediate Effectiveness of SR–BOX–2013–23).

[8] The Penny Pilot Program has been in effect on the Exchange since its inception in May 2012. *See* Securities Exchange Act Release Nos. 66871 (April 27, 2012) 77 FR 26323 (May 3, 2012) (File No. 10–206, In the Matter of the Application of BOX Options Exchange LLC for Registration as a National Securities Exchange Findings, Opinion, and Order of the Commission), and 67328 (June 29, 2012) 77 FR 40123 (July 6, 2012) (SR–BOX–2012–007). The Penny Pilot has been extended and is currently in place through June 30, 2013. *See* Securities Exchange Act Release No. 68425 (December 13, 2012), 77 FR 75234 (December 19, 2012) (Notice of Filing and Immediate Effectiveness of SR–BOX–2012–021).

[9] The three classes are the Nasdaq-100 Index Tracking Stock ("QQQQ"), the SPDR S&P 500 ETF ("SPY") and the iShares Russell 2000 Index Fund ("IWM"). QQQQ, SPY and IWM are quoted in $0.01 increments for all options series.

[10] *See supra*, notes 4 and 6 [sic].

[11] *See* BOX Rule 7270(a).

[12] *See* IM–7270–2.

[13] *See* BOX Rule 7270(b).

that while Participants may execute Complex Orders involving Jumbo SPY Options, if any leg of a complex order is a Jumbo SPY Option, all options legs of such orders must also be in Jumbo SPY Option.[14]

Other

The Exchange represents that Market Maker appointments for Jumbo SPY Options will be done in compliance with existing Exchange rules.[15] The Exchange also proposes to clarify that for Market Maker quoting obligation purposes Jumbo SPY Options will not be combined with standard SPY options. In addition, Jumbo SPY Options will be eligible to trade on the Exchange's PIP auction.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),[16] in general, and Section 6(b)(5) of the Act,[17] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

Minimum Price Variation

In particular, the proposed rule change will assure that Mini, Jumbo and standard SPY options will trade in similar increments, providing market participants meaningful trading opportunities and enabling them to trade Jumbo SPY Options with greater precision as to price. The Exchange also believes that allowing Mini, standard and Jumbo SPY options to trade in similar increments will avoid investor confusion. The Exchange further believes that investors and other market participants will benefit from this proposed rule change because it clarifies and establishes the minimum trading increment for Jumbo SPY Options prior to the commencement of trading. The Exchange believes that investors generally will be expecting the minimum trading increment for Jumbo SPY Options to be the same as the minimum trading increment for Mini and standard options on SPY. This proposed rule change will therefore lessen investor confusion because Jumbo SPY Options, Mini and standard SPY options will all have the same minimum trading increment.

Facilitation Auction and Solicitation Auction

The proposed rule change will assure that standard options and Jumbo Options on the same underlying security will have an equivalent minimum contract threshold for the execution of orders in the Exchange's Facilitation Auction and Solicitation Auction. The Exchange believes the proposed rule change will avoid investor confusion because in the absence of this proposal, the minimum contract threshold for executing Jumbo SPY Options in either the Facilitation Auction or the Solicitation Auction would not be equivalent than [sic] that for standard options (*i.e.*, different number of underlying securities). The Exchange does not intend for Jumbo SPY Options and standard options to have different minimum contract threshold requirements for its various auctions executed on the Exchange. The Exchange further believes that investors and other market participants will benefit from this proposed rule change because it clarifies and establishes the minimum contract threshold for executing Jumbo SPY Options in the Facilitation and Solicitation Auctions. The Exchange believes that investors generally will be expecting the minimum contract threshold for Jumbo SPY Options to be equivalent to the minimum contract threshold for standard SPY options. This proposed rule change will therefore lessen investor confusion.

Complex Orders

The Exchange believes that investors and other market participants would benefit from the current proposal to amend the Complex Orders rules because it provides that market participants may take advantage of legitimate investment strategies and execute complex orders involving Jumbo SPY Options. Additionally, the Exchange believes the proposed rule change will help avoid investor confusion, by providing how Jumbo SPY Options will trade as compared to standard options with respect to Complex Orders.

The Exchange's proposal to permit Jumbo SPY Options to trade as Complex Orders provided the strategy does not combine Jumbo SPY Options and standard SPY options serves to maintain the permissible ratios that are applicable to Complex Orders by separating the trading of standard option Complex Orders and Jumbo SPY Option Complex Orders.

Finally, the Exchange believes that the proposed rule change is not designed to permit unfair discrimination among market participants as all market participants may participate in complex orders involving Jumbo SPY Options.

Other

The Exchange believes that it is appropriate to clarify how Jumbo SPY Options will be treated for purposes of a Market Maker's assignment and quoting obligations, as well as if this new product is eligible to trade on the PIP auction. Doing so provides investors and other market participants with a clear and accurate understanding of the Exchange's rules regarding Jumbo SPY Options. By submitting this proposal the Exchange is eliminating any potential confusion about how Jumbo SPY Options will be listed and traded. In particular, the Exchange believes that allowing Jumbo SPY Options to be eligible for the PIP auction may increase the frequency with which Options Participants initiate a PIP Order, which may result in greater opportunity for price improvement for customers. Further, the Exchange believes it is appropriate for Market Maker assignments in Jumbo SPY Options to be in compliance with existing Exchange rules, and to not combine Jumbo SPY Options with standard SPY options in determining Market Maker quoting obligations. This is the same approach that the Exchange took to Mini Options and doing this will lessen investor confusion on this new product.

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. Specifically, the Exchange believes that investors would benefit from the introduction and availability of Jumbo SPY by making options on large blocks of the SPY ETF more available as an investing tool, particularly for institutional investors. Trading in Jumbo SPY Options is entirely voluntary and Participants can determine if they would like to trade in this new product. The Exchange believes this proposed rule change is necessary to establish uniform rules regarding minimum trading increments, minimum contract thresholds, and

[14] *See* Securities Exchange Act Release No. 69419 (April 19, 2013), 78 FR 24449 (April 25, 2013) (Approval Order of SR–BOX–2013–01). The Exchange launched its Complex Order Book on May 3, 2013.

[15] *See* BOX Rule 8030(a).

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

complex orders for the listing and trading of Jumbo SPY Options, a new options product. This proposal is also designed to promote investor certainty by clarifying if Jumbo SPY Options will be able to trade on the PIP, as well as the assignment and quoting obligations for Jumbo SPY Options.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, 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 [18] and Rule 19b–4(f)(6) thereunder.[19]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay so that the proposed rule change may become operative before the anticipated launch of trading in Jumbo SPY Options. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.[20] Waiver of the operative delay will allow the Exchange to implement its proposal consistent with the anticipated commencement of trading in Jumbo SPY Options on May 10, 2013. For these reasons, the Commission designates the proposed rule change as operative upon filing.

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–BOX–2013–25 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–BOX–2013–25. 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–BOX–2013–25 and should be submitted on or before June 5, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–11523 Filed 5–14–13; 8:45 am]

BILLING CODE 8011–01–P

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its 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 fulfilled this requirement.

[20] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69541; File No. SR–BYX–2013–013]

Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Amend and Restate the Amended and Restated By-Laws of BATS Y-Exchange, Inc.

May 8, 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 April 29, 2013, BATS Y-Exchange, Inc. (the "Exchange" or "BYX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, 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 filed a proposal to amend the by-laws of the Exchange.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 intends to amend and restate its Amended and Restated By-Laws (the "Current By-Laws") and adopt these changes as its Second Amended and Restated By-Laws (the "New By-Laws").

The amendments to the Current By-Laws include: (i) Providing that the Board of Directors will consist of four (4) or more directors, with the board fixing the actual number of directors from time to time by resolution of the Board of Directors rather than fixing the number of directors in by-laws; and (ii) clarifying the procedures for filling vacancies on the Board of Directors, including as it relates to filling vacancies on the board resulting from newly created directorships resulting from any increase in the number of directors. The amendments to the Current By-Laws will provide greater flexibility to the Board of Directors of the Exchange by permitting the board to increase or decrease the size of the board without the need to further amend the by-laws, but in all cases subject to the compositional requirements of the board set forth in the by-laws. The amendments to the Current By-Laws would also (i) clarify the procedures for filling vacancies for the Member Representative Director position, and (ii) add a new requirement that the processes for filling any director vacancies apply to vacancies created as a result of an increase in the size of the board. The Exchange is not proposing to amend any of the compositional requirements of the board set forth in the by-laws. Thus, any vacancies filled pursuant to the New By-Laws would be required to continue to comply with these requirements.

Number of Directors

Article III, Section 2(a) of the Current By-Laws fixes the number of directors of the Exchange at ten (10) directors. Article III, Section 2(a) of the New By-Laws would amend Article III, Section 2(a) to state that the Board of Directors of the Exchange shall consist of four (4) or more members, the number thereof to be determined from time to time by resolution of the Board of Directors, subject to the compositional requirements of the board set forth in Article III, Section 2(b). As a result of these compositional requirements, the board must, at a minimum, be comprised of at least four (4) directors. The Current By-Laws and the New By-Laws require that the Board of Directors consist of the following: (i) one (1) director who is the Chief Executive Officer of the Company; (ii) representation by Member Representative Directors of at least twenty percent (20%) of the board;[3] and (iii) representation by Non-Industry Directors (including at least one (1) Independent Director) that equals or exceeds the sum of the number of Industry Directors and Member Representative Directors. Under the Current By-Laws and the New By-Laws, the Chief Executive Officer is considered to be an Industry Director. With the Member Representative Director requirement of twenty percent (20%), the board must include at least one (1) Member Representative Director. Thus, the sum of the number of Industry Directors and Member Representative Directors would equal two (2) directors. As such, the board must also be comprised of at least two (2) Non-Industry Directors, bringing the total minimum size of the board to four (4) directors.

The New By-Laws will provide the board with the flexibility to increase or decrease the size of the board by resolution, rather than amending the by-laws each time the board seeks to increase or decrease the size of the board. The New By-Laws would continue to require that the Board of Directors meet the compositional requirements of Article III, Section 2(b).

Member Representative Director Vacancies

A Member Representative Director is defined in relevant part in Article I of the Current By-Laws as a Director "elected by the stockholders after having been nominated by the Member Nominating Committee[4] or by an Exchange Member pursuant to these By-Laws." Article III, Section 4 of the Current By-Laws in turn specifies the precise process the Member Nominating Committee is required to follow with the respect to the election and nomination of Member Representative Directors. Article III, Section 4(c) of the Current By-Laws specifies that the Member Representative Director nomination and election process includes the following requirements for member participation:

> Not later than sixty (60) days prior to the date announced as the date for the annual meeting of stockholders, the Member Nominating Committee shall report to the Nominating Committee and the Secretary the initial nominees for Member Representative Director positions on the Board that have been approved and submitted by the Member Nominating Committee. The Secretary shall promptly notify Exchange Members of those initial nominees. Exchange Members may identify other candidates ("Petition Candidates" for purposes of this Section 4) for the Member Representative Director positions by delivering to the Secretary, at least thirty-five (35) days before the date announced as the date for the annual meeting of stockholders (the "Record Date" for purposes of this Section 4), a written petition, which shall designate the candidate by name and office and shall be signed by Executive Representatives of ten percent (10%) or more of the Exchange Members. An Exchange Member may endorse as many candidates as there are Member Representative Director positions to be filled. No Exchange Member, together with its affiliates, may account for more than fifty percent (50%) of the signatures endorsing a particular candidate, and any signatures of such Exchange Member, together with its affiliates, in excess of the fifty percent (50%) limitation shall be disregarded.

As distinguished from the nomination and election of directors as part of the Exchange's annual stockholders meeting, Article III, Section 6 of the Current By-Laws specifies the procedures for filling *vacancies* on the board when a director position becomes vacant prior to the election of a successor at the end of such director's term, whether because of death, disability, disqualification, removal, or resignation. Under these circumstances, the Nominating Committee[5] must nominate, and the stockholders must elect, a person satisfying the classification for the directorship in compliance with the board compositional requirements of Article III, Section 2(b) of the Current By-Laws to fill such vacancy; provided, however, that if the remaining term of office of a Member Representative Director at the time of such director's termination is not more than six (6) months, during the period of vacancy the board is not deemed to be in violation of the board

[3] Because the number of Member Representative Directors must be at least twenty percent (20%) of the board, it is required under the Current By-Laws and the New By-Laws that if twenty percent (20%) of the directors then serving on the board is not a whole number, such number of Member Representative Directors must be rounded up to the next whole number.

[4] *See* Article VI, Section 3 of the Current By-Laws for a detailed description of the Member Nominating Committee and its responsibilities.

[5] *See* Article VI, Section 2 of the Current By-Laws for a detailed description of the Nominating Committee and its responsibilities.

compositional requirements because of such vacancy.

The Current By-Laws do not separately specify a process for filling a Member Representative Director position that becomes vacant prior to the election of a successor at the end such director's term. This lack of specificity has led to some confusion regarding the exact process to follow. In particular, the Current By-Laws would appear to require that a Member Representative Director vacancy be filled by the Nominating Committee; however, such a requirement would conflict with the Current By-Laws' definition of a Member Representative Director, which requires in all cases that such person be nominated by the Member Nominating Committee or by an Exchange Member. The Exchange intended that its Current By-Laws would require that the Member Nominating Committee nominate one or more candidates to fill Member Representative Director vacancies, which is consistent with precedent from other exchanges.[6]

As such, Article III, Section 6(a) and (b) of the New By-Laws would clarify the procedures for filling Member Representative Director vacancies on the board to require that the Member Nominating Committee shall either (i) recommend an individual to the stockholders to be elected to fill such vacancy or (ii) provide a list of recommended individuals to the stockholders from which the stockholders shall elect the individual to fill such vacancy. In addition, Article III, Section 6(a) and (b) of the New By-Laws would add the requirement that the process for filling vacancies described therein shall be followed in the circumstance where such vacancy is created as a result of an increase in the size of the board. Generally, if the board has determined to increase the size of the board, it is creating the new directorship seat(s) because it has identified a qualified candidate(s) who would improve the overall quality of the board. Under these circumstances, time is of the essence and waiting to elect a director(s) to fill a newly created directorship seat(s) at the next scheduled annual stockholder meeting is not in the best interests of the Exchange or its stockholders. As such, it's necessary that the New By-Laws include a more streamlined process to fill any vacancies created by increasing the size of the board. In the case of a director filling a vacancy not resulting from a newly-created directorship, the new director would serve until the expiration of the remaining term. In the case of a director filling a vacancy resulting from a newly-created directorship, the new director would serve until the expiration of such person's designated term. In all cases, however, if the remaining term of office of a director at the time of such director's vacancy is not more than six (6) months, during the period of vacancy the board shall not be deemed to be in violation of Article III, Section 2(b) because of such vacancy. Under the Current By-Laws, this six-month grace period applies only to Member Representative Director vacancies. Under the New By-Laws, this six-month grace period would be expanded to apply to any director vacancy, which is consistent with precedent from other exchanges.[7] Applying the six-month grace period to filling any director vacancy, and not just a Member Representative Director vacancy, would avoid the board being in violation of the board compositional requirements of the by-laws during such vacancy. This, in turn, would be less disruptive to the director election process by permitting the vacancy to be filled at the next scheduled annual stockholder meeting, rather than through an earlier-held special stockholder meeting.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[8] In particular, (i) Article III, Section 2(a) of the proposed New By-Laws, which permits the board to increase or decrease the size of the board by resolution, and (ii) Article III, Section 6(a) and (b) of the proposed New By-Laws, which clarify the procedures for filling vacancies on the board as described above, are consistent with Section 6(b)(1) of the Act, because they provide the board with measured flexibility in the operation of the Exchange and clarify the method by which vacancies on the board may be filled by stockholders, thereby enabling the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. While under the proposed New By-Laws the method of determining the size of the board would change and the procedures for filling vacancies on the board would be explained in greater detail, the Exchange is not proposing to amend any of the compositional requirements of the board set forth in the Current By-Laws. As such, the board would be required to continue to comply with these requirements. The Exchange further believes that the proposed changes will provide greater flexibility to the Exchange in populating a Board of Directors that includes directors with relevant expertise, while continuing to ensure that the existing compositional requirements of the Exchange are met. Finally, the Exchange again notes that the New By-Laws, as proposed to be amended, are similar to the by-laws of other exchanges with respect to the size of the board as well as the filling of vacancies.[9]

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. Specifically, the Exchange believes that the New By-Laws do not directly affect competition between the Exchange and others that provide the same goods and services as the Exchange, since they do not affect the availability or pricing of such goods and services. To the extent that the proposed changes to the by-laws may be construed to have any bearing on competition, the Exchange believes that the changes will promote competition between the Exchange and other national securities exchanges that do not have a restrictive number of directors set forth in their respective by-laws and permit vacancies on the board to be filled using similar procedures.[10]

[6] *See* Article III, Section 3.5(b) of the Sixth Amended and Restated Bylaws of Chicago Board Options Exchange, Incorporated; see *also* Article II, Section 3 of the By-Laws of the NASDAQ Stock Market LLC; see *also* Article II, Section 2.8(b) of the By-Laws of Miami International Securities Exchange, LLC; see *also* Article III, Section 6(b) of the Amended and Restated Bylaws of EDGA Exchange, Inc and Article III, Section 6(b) of the Amended and Restated Bylaws of EDGX Exchange, Inc.

[7] See Article III, Section 6(a) of the Amended and Restated Bylaws of EDGA Exchange, Inc and Article III, Section 6(a) of the Amended and Restated Bylaws of EDGX Exchange, Inc.; see also Article III, Section 2(b) of the By-Laws of the NASDAQ Stock Market LLC.

[8] 15 U.S.C. 78f(b).

[9] *See supra* note 6.

[10] *Id.*

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

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 self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BYX–2013–013 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BYX–2013–013. 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–BYX–2013–013, and should be submitted on or before June 5, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–11502 Filed 5–14–13; 8:45 am]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2013–0021]

Finding Regarding Foreign Social Insurance or Pension System—Kosovo

AGENCY: Social Security Administration (SSA).

ACTION: Notice of Finding Regarding Foreign Social Insurance or Pension System—Kosovo.

Finding: Section 202(t)(1) of the Social Security Act (42 U.S.C. 402(t)(1)) prohibits payment of monthly benefits to any individual who is not a United States citizen or national for any month after he or she has been outside the United States for 6 consecutive months. This prohibition does not apply to such an individual where one of the exceptions described in section 202(t)(2) through 202(t)(5) of the Social Security Act (42 U.S.C. 402(t)(2) through 402(t)(5)) affects his or her case.

Section 202(t)(2) of the Social Security Act provides that, subject to certain residency requirements of Section 202(t)(11), the prohibition against payment shall not apply to any individual who is a citizen of a country which the Commissioner of Social Security finds has in effect a social insurance or pension system which is of general application in such country and which:

(a) Pays periodic benefits, or the actuarial equivalent thereof, on account of old age, retirement, or death; and

(b) Permits individuals who are United States citizens but not citizens of that country and who qualify for such benefits to receive those benefits, or the actuarial equivalent thereof, while outside the foreign country regardless of the duration of the absence.

The Commissioner of Social Security has delegated the authority to make such a finding to the Associate Commissioner of the Office of International Programs. Under that authority, the Associate Commissioner of the Office of International Programs has approved a finding that Kosovo, beginning February 18, 2008 has a social insurance or pension system of general application in effect which pays periodic benefits, or the actuarial equivalent thereof, on account of old age, retirement, or death, but that under this social insurance or pension system, citizens of the United States citizens who are not citizens of Kosovo and who leave Kosovo, are not permitted to receive such benefits, or their actuarial equivalent, at the full rate without qualification or restriction while outside Kosovo.

Accordingly, it is hereby determined and found that Kosovo has in effect, beginning February 18, 2008, a social insurance or pension system which meets the requirements of section 202(t)(2)(A) of the Social Security Act (42 U.S.C. 402(t)(2)(A), but not the requirements of section 202(t)(t)(2)(B) of the Act (42 U.S.C. 402(t)(2)(B).

This finding also affects the application of subparagraphs (A) and (B) of section 202(t)(4) of the Social Security Act (42 U.S.C. 402(t)(4)(A) and (B)). That section provides that subject to certain residency requirements in section 202(t)(11), section 202(t)(1) shall not apply to the benefits payable on the earnings record of an individual who has 40 quarters of coverage under Social Security or who has resided in the United States for a period or periods aggregating 10 years or more. However, the provisions of subparagraphs (A) and (B) of section 202(t)(4) shall not apply to an individual who is a citizen of a foreign country that has in effect a social insurance or pension system which is of general application in such country and which satisfies the provisions of subparagraph (A) of section 202(t)(2), but not subparagraph (B) of section 202(t)(2).

By virtue of the finding with respect to section 202(t)(2) herein, the provisions of subparagraphs (A) and (B) of sections 202(t)(4) do not apply to

[11] 17 CFR 200.30–3(a)(12).

citizens of Kosovo beginning February 18, 2008.

FOR FURTHER INFORMATION CONTACT: Donna Powers, 3700 Robert Ball Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–3558.

(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)

Dated: May 9. 2013.

Vance Teel,

Associate Commissioner, Office of International Programs.

[FR Doc. 2013–11461 Filed 5–14–13; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice to Rescind a Notice of Intent To Prepare an Environmental Impact Statement (EIS): Dickson Southwest Bypass From US–70 to State Route 46 and/or Interstate 40, Dickson County, Tennessee

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice to Rescind a Notice of Intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: The Federal Highway Administration (FHWA) is issuing this notice to advise the public that the Notice of Intent published on September 24, 2007 to prepare an Environmental Impact Statement (EIS) for a proposed transportation project in Dickson County, Tennessee, is being rescinded.

FOR FURTHER INFORMATION CONTACT: Ms. Theresa Claxton, Planning and Program Management Team Leader, Federal Highway Administration—Tennessee Division Office, 404 BNA Drive, Suite 508, Nashville, TN 37217. 615–781–5770.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Tennessee Department of Transportation (TDOT), is rescinding the notice of intent to prepare an EIS for the proposed Southwest Dickson Bypass from US–70 to State Route (SR) 46 and/or Interstate 40, in Dickson County, Tennessee. The proposed project was approximately 9.7 miles in length.

The FHWA approved the Draft EIS (DEIS) on August 8, 2011. The project as described in the DEIS proposed improvements to the SR 46 corridor from the Interstate 40 interchange to US 70. The purpose of the project was to improve mobility through the City of Dickson. During the DEIS process TDOT conducted public involvement and agency coordination, developed a purpose and need for the project, and developed preliminary alternatives. The preliminary alternatives included a No-Build alternative, a Transportation System Management (TSM) alternative, and build alternatives that would involve constructing a roadway on new location to the west of the City of Dickson and SR 46.

Based on the findings of the DEIS and public and agency input, FHWA and TDOT determined that the TSM alternative, which includes various improvements primarily along existing SR 46, would meet the purpose and need of the project and could be accomplished without significant adverse impacts to the environment. Proposed improvements may include the addition of turn lanes at intersections, synchronization of traffic signals, and installation of new traffic signals, if warranted. As such, FHWA and TDOT are rescinding the Notice of Intent to prepare an EIS and will evaluate the proposed TSM improvements as a Categorical Exclusion.

Comments and questions concerning the proposed action should be directed to FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulating implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this proposed program.)

Theresa Claxton,

Planning and Program Mgmt. Team Leader, Nashville, TN.

[FR Doc. 2013–11537 Filed 5–14–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2011–0279]

Agency Information Collection Activities; Approval of a New Information Collection: Motorcoach Passenger Survey: Motorcoach Safety and Pre-Trip Safety Awareness and Emergency Preparedness Information

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval, and invites public comment. An initial emergency request and 30-day notice was first published on October 18, 2011 for this ICR. The purpose of this information collection is to assess the current levels of voluntary compliance by motorcoach operators to provide pre-trip safety awareness and emergency preparedness information to passengers and to obtain passenger opinions of the implementation of the pre-trip program and any recommended improvements.

This information, along with its conclusions, will be used to inform future initiatives, policies, and rules as appropriate; will be presented to the National Transportation Safety Board (NTSB) and Congress; and will contribute to the general literature regarding practices for improving motorcoach safety in the United States.

DATES: We must receive your comments on or before July 15, 2013.

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA 2011–0297 using one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.
- *Instructions:* All submissions must include the Agency name and docket number. For detailed instructions on submitting comments and additional information on the exemption process, see the Public Participation heading below. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. Please see the Privacy Act heading below.
- *Docket:* For access to the docket to read background documents or comments received, go to *http://www.regulations.gov*, and follow the online instructions for accessing the dockets, or go to the street address listed above.
- *Privacy Act:* Anyone is able to search the electronic form of all

comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's (DOT) complete Privacy Act Statement for the Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdfE8-794.pdf.*

• *Public Participation:* The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the "help" section of the Federal eRulemaking Portal Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Dee Williams, Strategic Planning and Program Evaluation Division Chief, Office of Policy, Strategic Planning & Regulations, (202) 493–0192, *dee.williams@dot.gov*, MC–PRS, Federal Motor Carrier Safety Administration, 6th Floor, West Building, 1200 New Jersey Ave. SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

Due to several recent fatal motorcoach crashes, the Congress, the Department of Transportation (DOT), specifically the Federal Motor Carrier Safety Administration (FMCSA), and other Federal oversight agencies, including NTSB, have increased their scrutiny over the motorcoach industry and the enforcement and compliance of the Federal Motor Carrier Safety Regulations (FMCSRs). On February 26, 1999, NTSB issued safety recommendation H–99–8 to DOT, requiring motorcoach operators to provide passengers with pre-trip safety awareness information. This recommendation resulted from NTSB's investigation of two motorcoach crashes from the late 1990s which revealed that passengers felt a general sense of panic not knowing what to do on a motorcoach in the case of an emergency. The intent of the recommendation is to empower passengers to take their personal safety into their own hands in the event of an imminent hazardous or emergency situation. The FMCSA decided to implement the recommendation through voluntary adoption and compliance of pre-trip safety briefings in the motorcoach industry.

The goals and objectives of this survey are to assess the current levels of voluntary compliance by motorcoach operators and to obtain passenger opinions of the implementation of the pre-trip safety awareness and emergency preparedness information. The Form MCSA–5868 will be used to survey motorcoach passengers. This information, along with its conclusions, will be used to inform future initiatives, policies, and rules as appropriate; will be presented to NTSB and Congress; and will contribute to the general literature regarding practices for improving motorcoach safety in the United States.

Title: Motorcoach Passenger Survey: Motorcoach Safety and Pre-Trip Safety Awareness and Emergency Preparedness Information.

OMB Control Number: 2126–XXXX.

Type of Request: New information collection.

Respondents: Motorcoach passenger-trips.

Estimated Number of Respondents: 2,000 motorcoach passenger-trips.

Estimated Time per Response: 10 minutes.

Form Numbers: Form MCSA–5868, Motorcoach Passenger Survey: Pre-Trip Safety Awareness and Emergency Preparedness Information—To collect motorcoach passengers' responses during five, one-shot in-person survey events.

Expiration Date: N/A. This is a new information collection.

Frequency of Response: One-time.

Estimated Total Burden: 333 hours [2,000 respondents × 10 minutes/60 minutes = 333 hours].

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information.

Issued On: May 3, 2013.

G. Kelly Leone,

Associate Administrator, Office of Research and Information Technology and Chief Information Officer.

[FR Doc. 2013–11528 Filed 5–14–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Unblocking of Specially Designated Nationals and Blocked Persons Pursuant to the Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control ("OFAC") is publishing the names of two individuals and one entity whose property and interests in property have been unblocked pursuant to the Foreign Narcotics Kingpin Designation Act ("Kingpin Act") (21 U.S.C. 1901–1908, 8 U.S.C. 1182).

DATES: The unblocking and removal from the list of Specially Designated Nationals and Blocked Persons ("SDN List") of the two individuals and one entity identified in this notice whose property and interests in property were blocked pursuant to the Kingpin Act, is effective on April 30, 2013.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, Department of the Treasury, Office of Foreign Assets Control, Washington, DC 20220, Tel: (202) 622–2420.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site at *www.treasury.gov/ofac* or via facsimile through a 24-hour fax-on demand service at (202) 622–0077.

Background

On December 3, 1999, the Kingpin Act was signed into law by the President of the United States. The Kingpin Act provides a statutory framework for the President to impose sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and to the benefits of trade and transactions involving U.S. persons and entities.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President. In addition, the Secretary of the Treasury consults with the Attorney General, the Director of the Central Intelligence Agency, the Director of the Federal

Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security when designating and blocking the property or interests in property, subject to U.S. jurisdiction, of persons or entities found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; and/or (3) playing a significant role in international narcotics trafficking.

On April 30, 2013, the Director of OFAC removed from the SDN List the two individuals and one entity listed below, whose property and interests in property were blocked pursuant to the Kingpin Act:

Individuals

1. DIAZ HERRERA, Jose Ricuarte, c/o PROMOTORA HOTELERA LTDA, Bogota, Colombia; DOB 16 Aug 1958; POB Venecia, Cundinamarca, Colombia; citizen Colombia; Cedula No. 79263544 (Colombia) (individual) [SDNTK].

2. MORENO BERNAL, Luz Marina, c/o PROMOTORA HOTELERA LTDA, Bogota, Colombia; DOB 02 Jul 1955; POB Bogota, Colombia; citizen Colombia; Cedula No. 41703570 (Colombia) (individual) [SDNTK].

Entity

1. PROMOTORA HOTELERA LTDA (a.k.a. COMERCIAL PROMOTELES), Calle 114 No. 9–01, Bogota, Colombia; NIT #8300125383 (Colombia) [SDNTK].

Dated: April 30, 2013.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2013–11540 Filed 5–14–13; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Unblocking of Specially Designated Nationals and Blocked Persons Pursuant to Executive Order 12978

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control ("OFAC") is publishing the names of 14 individuals whose property and interests in property have been unblocked pursuant to Executive Order 12978 of October 21, 1995, "Blocking Assets and Prohibiting Transactions With Significant Narcotics Traffickers".

DATES: The unblocking and removal from the list of Specially Designated Nationals and Blocked Persons ("SDN List") of the 14 individuals identified in this notice whose property and interests in property were blocked pursuant to Executive Order 12978 of October 21, 1995, is effective on April 30, 2013.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, Department of the Treasury, Office of Foreign Assets Control, Washington, DC 20220, Tel: (202) 622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treasury.gov/ofac*) or via facsimile through a 24-hour fax-on demand service at (202) 622–0077.

Background

On October 21, 1995, the President, invoking the authority, *inter alia,* of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) ("IEEPA"), issued Executive Order 12978 (60 FR 54579, October 24, 1995) (the "Order"). In the Order, the President declared a national emergency to deal with the threat posed by significant foreign narcotics traffickers centered in Colombia and the harm that they cause in the United States and abroad.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, or that hereafter come within the United States or that are or hereafter come within the possession or control of United States persons, of: (1) The foreign persons listed in an Annex to the Order; (2) any foreign person determined by the Secretary of Treasury, in consultation with the Attorney General and the Secretary of State: (a) To play a significant role in international narcotics trafficking centered in Colombia; or (b) to materially assist in, or provide financial or technological support for or goods or services in support of, the narcotics trafficking activities of persons designated in or pursuant to the Order; and (3) persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to be owned or controlled by, or to act for or on behalf of, persons designated pursuant to the Order.

On April 30, 2013, the Director of OFAC removed from the SDN List the 14 individuals listed below, whose property and interests in property were blocked pursuant to the Order:

1. ARBOLEDA ARROYAVE, Pedro Nicholas (a.k.a. ARBOLEDA ARROYAVE, Pedro Nicolas), c/o DEPOSITO POPULAR DE DROGAS S.A., Cali, Colombia; c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogota, Colombia; c/o D'CACHE S.A., Cali, Colombia; c/o CREDIREBAJA S.A., Cali, Colombia; c/o FUNDASER, Cali, Colombia; DOB 23 Jun 1957; Cedula No. 16602372 (Colombia) (individual) [SDNT].

2. CELIS PEREZ, Alexander, c/o DROCARD S.A., Bogota, Colombia; DOB 16 Feb 1973; Cedula No. 79620931 (Colombia) (individual) [SDNT].

3. CUECA VILLARAGA, Hernan, c/o DROGAS LA REBAJA BOGOTA S.A., Bogota, Colombia; Cedula No. 11352426 (Colombia) (individual) [SDNT].

4. DUQUE MARTINEZ, Diego Fernando, c/o GENERICOS ESPECIALES S.A., Bogota, Colombia; DOB 31 Jan 1972; Cedula No. 8191760 (Colombia); Passport 8191760 (Colombia) (individual) [SDNT].

5. DUQUE MARTINEZ, Maria Consuelo (a.k.a. DUQUE DE GIRALDO, Maria Consuelo), c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia; c/o FARMACOOP, Bogota, Colombia; DOB 19 May 1955; Cedula No. 41716296 (Colombia) (individual) [SDNT].

6. FERNANDEZ LUNA, Tiberio, c/o DISTRIBUIDORA DE DROGAS CONDOR S.A., Bogota, Colombia; c/o COPSERVIR LTDA., Bogota, Colombia; c/o LABORATORIOS BLANCO PHARMA DE COLOMBIA S.A., Bogota, Colombia; DOB 03 Nov 1960; Cedula No. 93286690 (Colombia); Passport AE956843 (Colombia) (individual) [SDNT].

7. GAMEZ CIFUENTES, Norma Lucero, c/o DROCARD S.A., Bogota, Colombia; DOB 22 Jan 1958; Cedula No. 41674484 (Colombia); Passport 41674484 (Colombia) (individual) [SDNT].

8. LEAL FLOREZ, Luis Alejandro, c/o DISTRIBUIDORA DE DROGAS CONDOR S.A., Bogota, Colombia; c/o COINTERCOS S.A., Bogota, Colombia; c/o FIDUSER LTDA., Bogota, Colombia; COSMEPOP, Bogota, Colombia; LATINA DE COSMETICOS Y DISTRIBUCIONES S.A., Bogota, Colombia; DOB 12 Sep 1961; Cedula No. 7217432 (Colombia); Passport 7217432 (Colombia) (individual) [SDNT].

9. NAIZAQUE PUENTES, Jose de Jesus, c/o COINTERCOS S.A., Bogota, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogota, Colombia; c/o COSMEPOP, Bogota, Colombia; Calle 58A S 80C–31, Bogota, Colombia; DOB 12 Mar 1956; Cedula No. 19348370 (Colombia) (individual) [SDNT].

10. PACHECO, Rosa Elena, c/o LEMOFAR LTDA., Bogota, Colombia; DOB 02 Jan 1958; Cedula No. 36162233 (Colombia); Passport 36162233 (Colombia) (individual) [SDNT].

11. PEREZ GOMEZ, Stella, c/o ASESORIAS ECONOMICAS MUNOZ SANTACOLOMA E.U., Cali, Colombia; c/o CONTACTEL COMUNICACIONES S.A., Cali, Colombia; c/o DISTRIBUIDORA SANAR DE COLOMBIA S.A., Cali, Colombia; c/o COPSERVIR LTDA., Bogota, Colombia; c/o PROVIDA E.U., Cali, Colombia; DOB 26 Jun 1960; Cedula No. 31848468 (Colombia); Passport 31848468 (Colombia) (individual) [SDNT].

12. RAMIREZ SUAREZ, Luis Carlos (a.k.a. RAMIREZ SUARES, Luis Carlos), c/o DROGAS LA REBAJA BUCARAMANGA S.A., Bucaramanga, Colombia; c/o COPSERVIR LTDA., Bogota, Colombia; DOB 15 May 1952; Cedula No. 19164938 (Colombia) (individual) [SDNT].

13. RUEDA FAJARDO, Herberth Gonzalo, c/o FARMACOOP, Bogota, Colombia; c/o LABORATORIOS GENERICOS VETERINARIOS, Bogota, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA S.A., Bogota, Colombia; DOB 06 Oct 1964; Cedula No. 12126395 (Colombia) (individual) [SDNT].

14. VEGA, Rosalba, c/o BONOMERCAD S.A., Bogota, Colombia; c/o PATENTES MARCAS Y REGISTROS S.A., Bogota, Colombia; c/o SHARPER S.A., Bogota, Colombia; c/o GLAJAN S.A., Bogota, Colombia; c/o DECAFARMA S.A., Bogota, Colombia; c/o GENERICOS ESPECIALES S.A., Bogota, Colombia; DOB 22 Sep 1955; Cedula No. 21132758 (Colombia); Passport 21132758 (Colombia) (individual) [SDNT].

Dated: April 30, 2013.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2013–11539 Filed 5–14–13; 8:45 am]

BILLING CODE 4811–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Actions Taken Pursuant to Executive Order 13382

AGENCY: Office of Foreign Assets Control, Treasury Department.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control ("OFAC") is publishing on OFAC's list of Specially Designated Nationals and Blocked Persons ("SDN List") the names of five entities and one individual, whose property and interests in property are blocked pursuant to Executive Order 13382 of June 28, 2005, "Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters." The designations by the Director of OFAC, pursuant to Executive Order 13382, were effective on May 9, 2013.

DATES: The designations by the Director of OFAC, pursuant to Executive Order 13382, were effective on May 9, 2013.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, Tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treasury.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, Tel.: 202/622–0077.

Background

On June 28, 2005, the President, invoking the authority, *inter alia*, of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) ("IEEPA"), issued Executive Order 13382 (70 FR 38567, July 1, 2005) (the "Order"), effective at 12:01 a.m. eastern daylight time on June 29, 2005. In the Order, the President took additional steps with respect to the national emergency described and declared in Executive Order 12938 of November 14, 1994, regarding the proliferation of weapons of mass destruction and the means of delivering them.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in the United States, or that hereafter come within the United States or that are or hereafter come within the possession or control of United States persons, of: (1) The persons listed in the Annex to the Order; (2) any foreign person determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Attorney General, and other relevant agencies, to have engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer or use such items, by any person or foreign country of proliferation concern; (3) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to have provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, any activity or transaction described in clause (2) above or any person whose property and interests in property are blocked pursuant to the Order; and (4) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to the Order.

On May 9, 2013, the Director of OFAC, in consultation with the Departments of State, Justice, and other relevant agencies, designated five entities and one individual whose property and interests in property are blocked pursuant to Executive Order 13382.

The list of additional designees is as follows:

1. KHAKI, Parviz (a.k.a. "MARTIN"); DOB 26 Aug 1968; POB Tehran, Iran (individual) [NPWMD] [IFSR].

2. TAGHTIRAN KASHAN COMPANY (a.k.a. TAGHTIRAN P.J.S.), Flat 2, No. 3, 2nd Street, Azad-Abadi Avenue, Tehran 14316, Iran; KM 44 Kashan-Delijan Road, P.O. Box Kashan 87135/1987, Kashan, Iran [NPWMD] [IFSR].

3. ALUMINAT (a.k.a. ALUMINAT PRODUCTION AND INDUSTRIAL COMPANY), Unit 38, 5th Floor, No. 9, Golfam Avenue, Africa Avenue, Tehran, Iran; Factory-Kilometer 13, Arak Road, Parcham Street, Arak, Iran [NPWMD] [IFSR].

4. PARS AMAYESH SANAAT KISH (a.k.a. PASK; a.k.a. VACUUM KARAN; a.k.a. VACUUM KARAN CO.; a.k.a. VACUUMKARAN), 3rd Floor, No. 6, East 2nd, North Kheradmand,

Karimkhan Street, Tehran, Iran [NPWMD] [IFSR].

5. PISHRO SYSTEMS RESEARCH COMPANY (a.k.a. ADVANCED SYSTEMS RESEARCH COMPANY; a.k.a. ASRC; a.k.a. CENTER FOR ADVANCED SYSTEMS RESEARCH; a.k.a. CRAS; a.k.a. PISHRO COMPANY), Tehran, Iran [NPWMD] [IFSR].

6. IRANIAN–VENEZUELAN BI–NATIONAL BANK (a.k.a. "IVBB"), Tosee Building Ground Floor, Bokharest Street 44–46, Tehran, Iran; SWIFT/BIC IVBBIRT1; all offices worldwide [NPWMD] [IFSR].

Dated: May 9, 2013.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2013–11538 Filed 5–14–13; 8:45 am]

BILLING CODE 4810–AL–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, Requirements For Investments to Qualify Under Section 936(d)(4) As Investments in Qualified Caribbean Basin Countries.

DATES: Written comments should be received on or before July 15, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Martha R. Brinson at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3869, or through the Internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Requirements For Investments to Qualify Under Section 936(d)(4) As Investments in Qualified Carribean Basin Countries.

OMB Number: 1545–1138.

Regulation Project Number: TD 8350.

Abstract: This regulation relates to the requirements that must be met for an investment to qualify under Internal Revenue code section 936(d)(4) as an investment in qualified Caribbean Basin countries. Income that is qualified possession source investment income is entitled to a quasi-tax exemption by reason of the U.S. possessions tax credit under Code section 936(a) and substantial tax exemptions in Puerto Rico. Code section 936(d)(4)(C) places certification requirements on the recipient of the investment and the qualified financial institution; and recordkeeping requirements on the financial institution and the recipient of the investment funds to enable the IRS to verify that the investment funds are being used properly and in accordance with the Caribbean Basin Economic Recovery Act.

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 Recordkeepers: 50.

Estimated Time per Recordkeeper: 30 hours.

Estimated Total Annual Recordkeeping Hours: 1,500.

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: April 22, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–11510 Filed 5–14–13; 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, Requirements to Ensure Collection of Section 2056A Estate Tax.

DATES: Written comments should be received on or before July 15, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Martha R. Brinson at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3634, or through the Internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Requirements to Ensure Collection of Section 2056A Estate Tax.

OMB Number: 1545–1443.

Regulation Project Number: TD 8686.

Abstract: This regulation provides guidance relating to the additional requirements necessary to ensure the collection of the estate tax imposed

under Internal Revenue Code section 2056A(b) with respect to taxable events involving qualified domestic trusts (QDOT'S). In order to ensure collection of the tax, the regulation provides various security options that may be selected by the trust and the requirements associated with each option. In addition, under certain circumstances the trust is required to file an annual statement with the IRS disclosing the assets held by the trust.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 4,390.

Estimated Time per Respondent: 1 hour, 23 minutes.

Estimated Total Annual Burden Hours: 6,070.

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: April 26, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–11512 Filed 5–14–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8453–EO

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 8453–EO, Exempt Organization Declaration and Signature for Electronic Filing.

DATES: Written comments should be received on or before July 15, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3869, or through the internet at *Martha.R.Brinson@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Exempt Organization Declaration and Signature for Electronic Filing.

OMB Number: 1545–1879.

Form Number: 8453–EO.

Abstract: Form 8453–EO is used to enable the electronic filing of Forms 990, 990–EZ, or 1120–POL.

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: Not-for-profit institutions.

Estimated Number of Respondents: 200.

Estimated Time per Respondent: 5 hours, 14 minutes.

Estimated Total Annual Burden Hours: 1,046.

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: April 26, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–11511 Filed 5–14–13; 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, Earnings Stripping (Section 163(j)).

DATES: Written comments should be received on or before July 15, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Martha R. Brinson, (202) 622–3869, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington DC 20224, or through the internet, at *Martha.R.Brinson@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Earnings Stripping (Section 163(j)).

OMB Number: 1545–1255.

Regulation Project Number: INTL–870–89.

Abstract: Internal Revenue Code section 163(j) concerns the limitation on the deduction for certain interest paid by a corporation to a related person. This provision generally does not apply to an interest expense arising in a taxable year in which the payer corporation's debt-equity ratio is 1.5 to 1 or less. Regulation section § 1.163(j)–5(d) provides a special rule for adjusting the basis of assets acquired in a qualified stock purchase. This rule allows the taxpayer, in computing its debt-equity ratio, to elect to write off the basis of the stock of the acquired corporation over a fixed stock write-off period, instead of using the adjusted basis of the assets of the acquired corporation.

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: 2,300.

Estimated Time per Respondent: 31 minutes.

Estimated Total Annual Burden Hours: 1,196.

The following paragraph applies to all 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: April 22, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–11513 Filed 5–14–13; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

Vol. 78 Wednesday,
No. 94 May 15, 2013

Part II

The President

Federal Register
Vol. 78, No. 94
Wednesday, May 15, 2013

Presidential Documents

Title 3—

The President

Proclamation 8977 of May 10, 2013

National Defense Transportation Day and National Transportation Week, 2013

By the President of the United States of America

A Proclamation

As a Nation, we have no task more urgent than creating good jobs, strengthening our economy, and reigniting the thriving middle class that has always been the true engine of America's growth. To meet these goals, we need to rebuild the infrastructure that powers our industries. We need to make our cities more connected and more resilient to the challenges we face. We need to restore our roads, bridges, and ports—transportation networks that are essential to making the United States the best place in the world to do business.

In the past 4 years, we have taken important steps down that path. But even now, too many of our rail lines are slow and backed up. Too many of our bridges remain unsafe. We know our country can do better—which is why I proposed a "Fix-It-First" program earlier this year to put people to work on our most pressing transportation projects. Alongside it, I also proposed a Partnership to Rebuild America, which would attract private capital to upgrade the infrastructure our businesses need most. These initiatives would help modernize communities, expand small businesses, and get more construction workers back on the job.

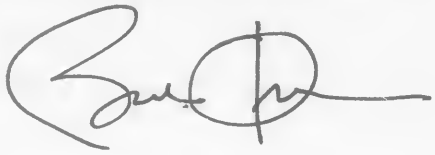
We also recognize that repairing our transportation networks is about more than economic growth—it is about security. At a time when our cities face unprecedented threats and hazards, we must do more to ensure our first responders and our service members can respond effectively during crisis. That means protecting our critical infrastructure and repairing roads and bridges that put our people at risk.

Together, we can make meaningful progress toward those goals. Let us recommit this week to revitalizing transportation, pioneering new solutions to tough challenges, and making lasting investments in America's infrastructure.

In recognition of the importance of our Nation's transportation infrastructure, and of the men and women who build, maintain, and utilize it, the Congress has requested, by joint resolution approved May 16, 1957, as amended (36 U.S.C. 120), that the President designate the third Friday in May of each year as "National Defense Transportation Day," and, by joint resolution approved May 14, 1962, as amended (36 U.S.C. 133), that the week during which that Friday falls be designated as "National Transportation Week."

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim Friday, May 17, 2013, as National Defense Transportation Day and May 12 through May 18, 2013, as National Transportation Week. I call upon all Americans to recognize the importance of our Nation's transportation infrastructure and to acknowledge the contributions of those who build, operate, and maintain it.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of May, in the year of our Lord two thousand thirteen, and of the Independence of the United States of America the two hundred and thirty-seventh.



[FR Doc. 2013–11754
Filed 5–14–13; 11:15 am]
Billing code 3295–F3

Presidential Documents

Proclamation 8978 of May 10, 2013

National Women's Health Week, 2013

By the President of the United States of America

A Proclamation

Since our Nation's founding, women have given their all to expanding opportunity for their families and for future generations. Decade after decade, that fierce dedication has been rewarded with remarkable progress in nearly every part of society; yet all too often, advances in women's health and well-being have lagged behind. During National Women's Health Week, we recommit to changing that reality and increasing access to health services that help women and girls get the care they need.

Three years ago, I signed the Affordable Care Act—reform that brought about a new era of equality in health care and gave women unprecedented control over their health. Under the law, women will no longer face higher insurance premiums because of their gender. It will be illegal for insurers to deny coverage due to pre-existing conditions like pregnancy or cancer. Already, 47 million women have gained access to preventive services at no out-of-pocket cost, including well-woman visits, domestic violence screenings and counseling, and contraceptive care. And millions more are benefitting from improved prescription drug coverage under Medicare that helps seniors get the medication they need at prices they can afford.

These changes are making a real difference for families in every part of our country. Thanks to the Affordable Care Act, working mothers no longer have to choose between getting essential care and paying their bills. Women no longer have to delay mammograms just because money is tight. And young people can stay on their parent's health insurance until age 26, so they no longer have to worry about how to afford health care when they are just starting out. I encourage women of all ages to visit www.WomensHealth.gov, www.GirlsHealth.gov, and www.HealthCare.gov to learn more about resources available to them, including the new Health Insurance Marketplace.

This week, as we reflect on how far we have come in the fight to provide Americans with the care they deserve, let us renew our commitment to empowering all women with the chance to live strong, healthy lives.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 12 through May 18, 2013, as National Women's Health Week. I encourage all Americans to celebrate the progress we have made in protecting women's health and to promote awareness, prevention, and educational activities that improve the health of all women.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of May, in the year of our Lord two thousand thirteen, and of the Independence of the United States of America the two hundred and thirty-seventh.

[FR Doc. 2013–11755
Filed 5–14–13; 11:15 am]
Billing code 3295–F3

Presidential Documents

Proclamation 8979 of May 10, 2013

Peace Officers Memorial Day and Police Week, 2013

By the President of the United States of America

A Proclamation

Day after day, police officers in every corner of America suit up, put on the badge, and carry out their sworn duty to protect and serve. They step out the door every morning without considering bravery or heroics. They stay focused on meeting their responsibilities. They concentrate on keeping their neighborhoods safe and doing right by their fellow officers. And with quiet courage, they help fulfill the demanding yet vital task of shielding our people from harm. It is work that deserves our deepest respect—because when darkness and danger would threaten the peace, our police officers are there to step in, ready to lay down their lives to protect our own.

This week, we pay solemn tribute to men and women who did. Setting aside fear and doubt, these officers made the ultimate sacrifice to preserve the rule of law and the communities they loved. They heard the call to serve and answered it; braved the line of fire; charged toward the danger. Our hearts are heavy with their loss, and on Peace Officers Memorial Day, our Nation comes together to reflect on the legacy they left us.

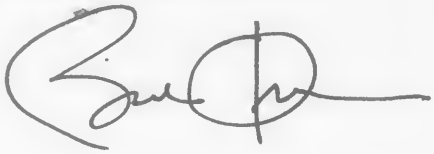
As we mark this occasion, let us remember that we can do no greater service to those who perished than by upholding what they fought to protect. That means doing everything we can to make our communities safer. It means putting cops back on the beat and supporting them with the tools and training they need. It means getting weapons of war off our streets and keeping guns out of the hands of criminals—common-sense measures that would reduce gun violence and help officers do their job safely and effectively.

Together, we can accomplish those goals. So as we take this time to honor law enforcement in big cities and small towns all across our country, let us join them in pursuit of a brighter tomorrow. Our police officers serve and sacrifice on our behalf every day, and as citizens, we owe them nothing less than our full and lasting support.

By a joint resolution approved October 1, 1962, as amended (76 Stat. 676), and by Public Law 103–322, as amended (36 U.S.C. 136–137), the President has been authorized and requested to designate May 15 of each year as "Peace Officers Memorial Day" and the week in which it falls as "Police Week."

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim May 15, 2013, as Peace Officers Memorial Day and May 12 through May 18, 2013, as Police Week. I call upon all Americans to observe these events with appropriate ceremonies and activities. I also call on Governors of the United States and the Commonwealth of Puerto Rico, officials of the other territories subject to the jurisdiction of the United States, and appropriate officials of all units of government, to direct that the flag be flown at half-staff on Peace Officers Memorial Day. I further encourage all Americans to display the flag at half-staff from their homes and businesses on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of May, in the year of our Lord two thousand thirteen, and of the Independence of the United States of America the two hundred and thirty-seventh.



[FR Doc. 2013–11756
Filed 5–14–13; 11:15 am]
Billing code 3295–F3

Presidential Documents

Proclamation 8980 of May 10, 2013

Mother's Day, 2013

By the President of the United States of America

A Proclamation

Today, sons and daughters all across America come together to honor the women who raised them. Whether single or in partnership, foster or adoptive, mothers hold a special place in our hearts. For many of us, they are our first caretakers and our first teachers, imparting the early lessons that guide us growing up. And no matter the challenges we face or the paths we choose, moms are there for their children with hope and love—scraping and sacrificing and doing whatever it takes to give them a bright future.

That work has often stretched outside the home. In the century since Americans first came together to mark Mother's Day, generations of women have empowered their children with the courage and grit to fight for change. But they have also fought to secure it themselves. Mothers pioneered a path to the vote, from Seneca Falls to the 19th Amendment. They helped write foundational protections into our laws, like freedom from workplace discrimination and access to affordable health care. They shattered ceilings in business and government, on the battlefield and on the court. With every step, they led the way to a more perfect Union, widening the circle of opportunity for our daughters and sons alike.

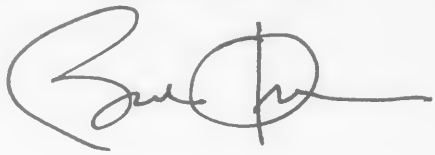
That history of striving and success affirms America's promise as a place where all things can be possible for all people. But even now, we have more work to do before that promise is made real for each of us. Workplace inflexibility puts a strain on too many mothers juggling their jobs' needs with those of their kids. Wage inequality still leaves too many families struggling to make ends meet. These problems affect all of us—and just as mothers pour themselves into giving their children the best chance in life, we need to make sure they get the fairness and opportunities they deserve.

On Mother's Day, we give thanks to proud, caring women from every walk of life. Whether balancing the responsibilities of career and family or taking up the work of sustaining a home, a mother's bond with her child is unwavering; her love, unconditional. Today, we celebrate those blessings, and we renew them for the year to come.

The Congress, by a joint resolution approved May 8, 1914 (38 Stat. 770), has designated the second Sunday in May each year as "Mother's Day" and requested the President to call for its appropriate observance.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim May 12, 2013, as Mother's Day. I urge all Americans to express love and gratitude to mothers everywhere, and I call upon all citizens to observe this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of May, in the year of our Lord two thousand thirteen, and of the Independence of the United States of America the two hundred and thirty-seventh.



[FR Doc. 2013–11757
Filed 5–14–13; 11:15 am]
Billing code 3295–F3

Presidential Documents

Memorandum of May 10, 2013

Advancing Pay Equality in the Federal Government and Learning From Successful Practices

Memorandum for the Heads of Executive Departments and Agencies

Almost 50 years ago, when President John F. Kennedy signed the Equal Pay Act of 1963, women were paid 59 cents for every dollar paid to men. Today, women are paid 77 cents for every dollar paid to men. At the same time, nearly two-thirds of women are breadwinners or co-breadwinners for their families. Unjust pay disparities are a detriment to women, families, and our economy.

The Federal Government is the Nation's largest employer. It has a special responsibility to act as a model employer. While salary ranges in the Federal workforce are generally determined by law, the fixing of individual salaries and other types of compensation can be affected by the exercise of administrative discretion. Such discretion must be exercised in a transparent manner, using fair criteria and adhering to merit system principles, which dictate that equal pay should be provided for work of equal value.

In order to further understand how the practices of executive departments and agencies (agencies) affect the compensation of similarly situated men and women, and to promote gender pay equality in the Federal Government and more broadly, I hereby direct the following actions, pursuant to the authority vested in me by the Constitution and the laws of the United States:

Section 1. *Government-wide Strategy for Advancing Pay Equality.* Within 180 days of the date of this memorandum, the Director of the Office of Personnel Management (Director) shall submit to the President a Government-wide strategy to address any gender pay gap in the Federal workforce. This strategy shall include:

(a) analysis of whether changes to the General Schedule classification system would assist in addressing any gender pay gap;

(b) proposed guidance to agencies to promote greater transparency regarding starting salaries; and

(c) recommendations for additional administrative or legislative actions or studies that should be undertaken to narrow any gender pay gap.

Sec. 2. *Agency Review of Pay and Promotion Policies and Practices.* To facilitate the Director's development of a Government-wide strategy, each agency shall, within 90 days of the date of this memorandum, provide to the Office of Personnel Management (OPM) information on and an analysis of the following matters:

(a) all agency-specific policies and practices for setting starting salaries for new employees;

(b) all agency-specific policies and practices that may affect the salaries of individuals who are returning to the workplace after having taken extended time off from their careers (for example, those who served as full-time caregivers to children or other family members);

(c) all agency-specific policies and practices for evaluating individuals regarding promotions, particularly individuals who work part-time schedules (for example, those who serve as caregivers to children or other family members);

(d) any additional agency-specific policies or practices that may be affecting gender pay equality; and

(e) any best practices the agency has employed to improve gender pay equality.

OPM shall provide guidance to agencies with respect to this request for information and analysis, including its scope.

Sec. 3. *General Provisions.* (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

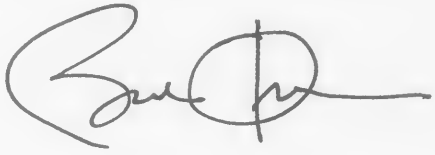
(i) the authority granted by law or Executive Order to an agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The Director is hereby authorized and directed to publish this memorandum in the *Federal Register.*



THE WHITE HOUSE,
Washington, May 10, 2013.

[FR Doc. 2013–11761
Filed 5–14–13; 11:15 am]
Billing code 6325–01

Reader Aids

Federal Register

Vol. 78, No. 94

Wednesday, May 15, 2013

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Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

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CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

FEDERAL REGISTER PAGES AND DATE, MAY

25361–25564	1
25565–25786	2
25787–26230	3
26231–26484	6
26485–26700	7
26701–27000	8
27001–27302	9
27303–27852	10
27853–28110	13
28111–28464	14
28465–28718	15

CFR PARTS AFFECTED DURING MAY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
8964 25563
8965 26213
8966 26215
8967 26217
8968 26219
8969 26221
8970 26223
8971 26225
8972 26227
8973 26229
8974 26483
8975 26997
8976 28464
8977 28709
8978 28711
8979 28713
8980 28715

Executive Orders:
13642 28111

Administrative Orders:
Memorandums:
Memorandum of May 10, 2013 28717
Notices:
Notice of May 2, 2013 26231
Notice of May 2, 2013 (C1-2013-10817) 26999
Notice of May 7, 2013 27301
Notice of May 13, 2013 28465

6 CFR

Proposed Rules:
Ch. X 28532

7 CFR

301 ..... 27853, 27855, 27856
319 25565
810 27857
905 28115
955 28118
966 28120
1280 28121
1739 25787
3575 26485

Proposed Rules:
205 25879
305 27864
319 ..... 25620, 25623, 26540
925 28147
929 28149

8 CFR

1292 28124

9 CFR

11 27001
71 26486

10 CFR

719 25795

Proposed Rules:
2 25886
429 27866
430 ..... 25626, 26544, 26711
431 25627

11 CFR

Proposed Rules:
Ch. I 25635

12 CFR

615 26701
1026 25818
1075 26489
1230 28442
1770 28442

Proposed Rules:
652 26711
1024 25638
1026 ..... 25638, 27308
1075 26545
1231 28452

13 CFR

127 26504

14 CFR

25 ..... 25840, 25846
39 ..... 25361, 25363, 25365, 25367, 25369, 25372, 25374, 25377, 25380, 26233, 26241, 27001, 27005, 27010, 27015, 27020, 28125, 28128, 28130
71 ..... 25382, 25383, 25384, 26243, 27025, 27029, 27031, 28132
97 ..... 25384, 25386, 28133, 28135

Proposed Rules:
25 26280
39 ..... 25662, 25664, 25666, 25898, 25902, 25905, 26286, 26556, 26712, 26715, 26716, 26720, 27310, 27314, 27315, 27318, 27867, 27869, 28152, 28156, 28159, 28161, 28540
71 ..... 25402, 25403, 25404, 25406, 26557, 26558, 27872

15 CFR

902 28523

16 CFR

Proposed Rules:
23 26289
435 25908
1110 28080

18 CFR

Proposed Rules:
40 27113

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.*

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO's Federal Digital System (FDsys) at *http://www.gpo.gov/fdsys.* Some laws may not yet be available.

H.R. 1246/P.L. 113–8
District of Columbia Chief Financial Officer Vacancy Act (May 1, 2013; 127 Stat. 441)

H.R. 1765/P.L. 113–9
Reducing Flight Delays Act of 2013 (May 1, 2013; 127 Stat. 443)

Last List April 17, 2013

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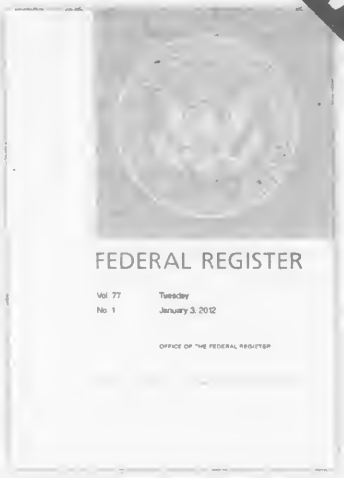

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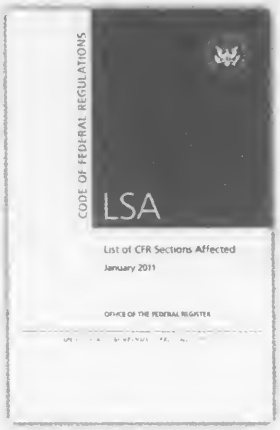

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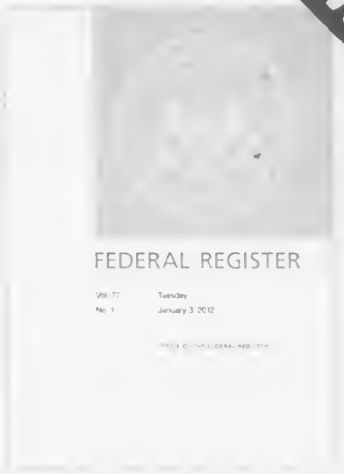

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