FEDERAL REGISTER

Vol. 77 Friday

No. 194 October 5, 2012

OFFICE OF THE FEDERAL REGISTER

FEDERAL REGISTER

Vol. 77 Friday,
No. 194 October 5, 2012

Pages 60883–61228

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.ofr.gov*.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at *www.fdsys.gov*, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, 1 (January 2, 1994) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Printing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, *gpo@custhelp.com*.

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register**, **Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register**, including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Printing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov*.

There are no restrictions on the republication of material appearing in the **Federal Register**.

How To Cite This Publication: Use the volume number and the page number. Example: 77 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	**202–741–6005**
Assistance with Federal agency subscriptions	**202–741–6005**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

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

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
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, October 23, 2012
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

Printed on recycled paper.

Contents

Federal Register
Vol. 77, No. 194
Friday, October 5, 2012

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.

7 CFR
331 61056

9 CFR
121 61056

12 CFR
Proposed Rules:
1238 60948

14 CFR
29 60883
39 (3 documents) 60887, 60889, 60891

19 CFR
Proposed Rules:
210 60952

23 CFR
Proposed Rules:
1200 60956

26 CFR
Proposed Rules:
1 60959
20 60960
25 60960

33 CFR
117 60896
165 (4 documents) 60897, 60899, 60901, 60904
Proposed Rules:
165 60960

40 CFR
9 61118
52 (5 documents) 60904, 60907, 60910, 60914, 60915
180 60917
271 60919
721 61118
Proposed Rules:
2 60962
271 60963

42 CFR
73 61084

45 CFR
2510 60922
2522 60922
2540 60922
2551 60922
2552 60922

47 CFR
0 60934

49 CFR
107 60935
171 60935
172 60935
173 60935
175 60935
178 60935
179 60935

50 CFR
622 (2 documents) 60945, 60946

Rules and Regulations

Federal Register
Vol. 77, No. 194
Friday, October 5, 2012

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 29

[Docket No. SW022; Special Conditions No. 29–022A–SC]

Special Conditions: Eurocopter France (ECF) Model EC225LP Helicopter, Installation of a Search and Rescue (SAR) Automatic Flight Control System (AFCS)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Amended final special conditions.

SUMMARY: These special conditions amend and supersede those final special conditions No. 29–022–SC, for the ECF model EC225LP helicopter, which were published in the **Federal Register** on November 6, 2008 (73 FR 65968). A notice proposing this amendment was published December 20, 2010 (75 FR 79312). This amendment modifies the original final special conditions to address comments received and to clarify the intent of some of the requirements. This helicopter, as modified by ECF, will have novel or unusual design features associated with installing an optional SAR AFCS. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: *Effective Date:* The effective date of these special conditions is November 5, 2012.

FOR FURTHER INFORMATION CONTACT: FAA, Aircraft Certification Service, Rotorcraft Directorate, Regulations and Policy Group (ASW–111), Attn: Stephen Barbini, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5196; facsimile (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Background and Discussion

On March 27, 2006, ECF applied for a change to Type Certificate (TC) No. H4EU to install an optional SAR AFCS in the model EC225LP helicopter. The model EC225LP is a transport category helicopter certificated to Category A requirements when configured for more than nine passengers and Category A or B requirements when configured for nine or less passengers. This helicopter is also certificated for instrument flight under the requirements of Appendix B to 14 CFR part 29, Amendment 29–47.

The use of dedicated AFCS upper modes, in which a fully coupled autopilot provides operational SAR profiles, is needed for SAR operations conducted over water in offshore areas clear of obstructions. The SAR modes enable the helicopter pilot to fly fully coupled maneuvers, to include predefined search patterns during cruise flight, and to transition from cruise flight to a stabilized hover and departure (transition from hover to cruise flight). The SAR AFCS also includes an auxiliary crew control that allows another crewmember (such as a hoist operator) to have limited authority to control the helicopter's longitudinal and lateral position during hover operations.

Flight operations conducted over water at night may have an extremely limited visual horizon with little visual reference to the surface even when conducted under Visual Meteorological Conditions (VMC). Consequently, the certification requirements for SAR modes must meet Appendix B to 14 CFR part 29. While Appendix B to 14 CFR part 29 prescribes airworthiness criteria for instrument flight, it does not consider operations below instrument flight minimum speed (V_{MINI}), whereas the SAR modes allow for coupled operations at low speed, all-azimuth flight to zero airspeed (hover).

Since SAR operations have traditionally been a public use mission, the use of SAR modes in civil operations requires special airworthiness standards (special conditions) to ensure that a level of safety consistent with Category A and Instrument Flight Rule (IFR) certification is maintained. In this regard, 14 CFR part 29 lacks adequate airworthiness standards for AFCS SAR mode certification to include flight characteristics, performance, and installed equipment and systems.

Type Certification Basis

Under 14 CFR 21.101, ECF must show the EC225LP, as changed, continues to meet the applicable provisions of the rules incorporated by reference in TC No. H4EU or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the TC are commonly referred to as the "original type certification basis." The regulations incorporated by reference in H4EU are as follows:

a. 14 CFR 21.29.

b. 14 CFR part 29 Amendments 29–1 to 29–25; plus § 29.785 through Amendment 29–28; plus §§ 29.963, 29.967, 29.973, 29.975 through Amendment 29–34; plus §§ 29.25, 29.865 through Amendment 29–42; plus §§ 29.1, 29.2, 29.49, 29.51, 29.53, 29.55, 29.59, 29.60, 29.61, 29.62, 29.64, 29.65, 29.67, 29.73, 29.75, 29.77, 29.79, 29.81, 29.83, 29.85, 29.87, 29.307, 29.337, 29.351, 29.361, 29.391, 29.395, 29.397, 29.401, 29.403, 29.413, 29.427, 29.501, 29.519, 29.547, 29.549, 29.561(c), 29.561(d), 29.563, 29.602, 29.610, 29.613, 29.621, 29.625, 29.629, 29.631, 29.663, 29.674, 29.727, 29.755, 29.775, 29.783, 29.787, 29.803, 29.805, 29.807, 29.809, 29.811, 29.855, 29.861, 29.901, 29.903, 29.908, 29.917, 29.923, 29.927, 29.954, 29.961, 29.965, 29.969, 29.971, 29.991, 29.997, 29.999, 29.1001, 29.1011, 29.1019, 29.1027, 29.1041, 29.1043, 29.1045, 29.1047, 29.1093, 29.1125, 29.1141, 29.1143, 29.1163, 29.1181, 29.1189, 29.1193, 29.1305, 29.1309, 29.1323, 29.1329, 29.1337, 29.1351, 29.1359, 29.1415, 29.1521, 29.1549, 29.1557, 29.1587, A29, B29, C29, D29 through Amendment 29–47; plus 29.1317 through Amendment 29–49.

c. 14 CFR part 36 Amendment 21 (ICAO Annex 16, Volume 1, Chapter 8).

d. Equivalent Safety Findings:

(1) TC2899RD–R–F–01; § 29.1303(j), V_{ne} aural warning.

(2) TC2899RD–R–F–02; § 29.1545(b)(4), Airspeed indicators markings.

(3) TC2899RD–R–F–03; § 29.1549(b), Powerplant instruments markings.

(4) TC2899RD–R–F–05; §§ 29.173, 29.175, Static Longitudinal Stability.

(5) TC2899RD–R–F–06; 14 CFR part 29, Appendix B, paragraph IV; IFR Static Longitudinal Stability—Airspeed stability.

(6) TC2899RD–R–A–01; § 29.807(d)(2), Ditching emergency exits for passengers.

(7) TC2899RD–R–P–01; § 29.923(a)(2), Rotor drive system and control mechanism tests.

In addition to the applicable airworthiness standards and special conditions, the ECF model EC225LP must comply with the noise certification requirements of 14 CFR part 36.

Regulatory Basis for Special Conditions

If the Administrator finds the applicable airworthiness standards (that is, 14 CFR part 29) do not contain adequate or appropriate safety standards for the ECF model EC225LP helicopter because of a novel or unusual design feature, special conditions are prescribed under § 21.16.

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

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

Novel or Unusual Design Features

The ECF model EC225LP helicopter will incorporate the following novel or unusual design features:

The SAR system is composed of a navigation computer with SAR modes, an AFCS that provides coupled SAR functions, hoist operator control, a hover speed reference system, and two radio altimeters. The AFCS coupled SAR functions include:

(a) Hover hold at selected height above the surface.

(b) Ground speed hold.

(c) Transition down and hover to a waypoint under guidance from the navigation computer.

(d) SAR pattern, transition down, and hover near a target over which the helicopter has flown.

(e) Transition up, climb, and capture a cruise height.

(f) Capture and track SAR search patterns generated by the navigation computer.

(g) Monitor the preselected hover height with automatic increase in collective if the aircraft height drops below the safe minimum height.

These SAR modes are intended to be used over large bodies of water in areas clear of obstructions. Further, use of the SAR modes that transition down from cruise to hover will include operation at airspeeds below V_{MINI}.

The SAR system only entails navigation, flight control, and coupled AFCS operation of the helicopter. The system does not include the extra equipment that may be required for over water flight or external loads to meet other operational requirements.

Discussion of Comments

In response to the final special conditions with request for comments, No. 29–022–SC, published in the **Federal Register** on November 6, 2008 (73 FR 65968), we received multiple comments from one commenter, AgustaWestland (AW). We responded to the comments and recommendations in the notice of proposed special conditions No. 29–022A–SC for the ECF model EC225LP helicopter installation of a SAR AFCS, published in the **Federal Register** on December 20, 2010 (75 FR 79312). Because we agreed with some of AW's comments, the notice proposed to revise the special conditions and clarify the intent of some of the requirements.

We gave the public the opportunity to comment on the amendments to the special conditions, but no additional comments were received in response to the notice of special conditions. Therefore, the amended special conditions are being adopted as proposed.

A summary of the amendments and clarification from the original special conditions published in No. 29–022–SC follows:

Referring to subparagraph (a)(3), which deals with a Go-Around mode, we disagree with AW's interpretation of the requirement, however we recognize the wording may be unclear. We made a change to subparagraph (a)(3) to reflect that the required Go-Around mode is pilot-selectable and the purpose is to interrupt any other coupled mode. We also clarified in subparagraph (a)(2) that this requirement pertains to normal SAR mode sequencing.

With respect to subparagraphs (b)(3) and (b)(4) of the SAR Mode System Architecture, we concurred with AW's recommendations, which is consistent with the requirement of subparagraph (b)(2). Therefore, subparagraphs (b)(3) and (b)(4) are revised to additionally require the actual groundspeed and actual heading to be displayed to the pilot.

In AW's reference to subparagraph (c)(3), we made non-substantive changes to improve the intent of the requirement.

Additional wording was added to subparagraph (f)(1)(i)(C) that provides linkage to the minimum use height (MUH) determination made in subparagraph (c)(3). This change was made for clarification purposes only and is not intended to increase or alleviate the current requirements. We have also defined MUH in subparagraph (c)(3). We do not intend for the SAR AFCS to decouple automatically if the helicopter descends below MUH.

We made some other minor changes to improve and clarify wording, with no substantive increase or decrease to the current requirements, as follows:

In subparagraph (a)(1) we added "(within the maximum demonstrated wind envelope)" to highlight that safe and controlled flight is required throughout the wind envelope. Adding this phrase does not change our intent of SAR envelope definition.

We added, "Pilot-commanded descent below the safe minimum height is acceptable provided the alerting requirements in (b)(7)(i) are sufficient to alert the pilot of this encroachment" to subparagraph (a)(4). This clarifies that the SAR AFCS is permitted to descend below the stored or pilot-selected safe minimum height only when commanded by the pilot, provided the alerting requirements are sufficient to alert the pilot of the descent.

We modified subparagraph (b)(6) to indicate that the AFCS system must monitor for all deviations and failures, not just those that create a hazard, which was our original intent. The alerting requirement does not change; a pilot alert is still required for all deviations and all failures that require pilot-corrective action.

Clarified subparagraph (b)(7) by adding subparagraph (iii) for normal transitions. This makes the requirement more specific.

We clarified in subparagraph (b)(8) that the hoist operator control has limited authority.

Subparagraph (b)(8)(iii) of the current special condition contains two requirements. We have separated them, so subparagraph (b)(8)(iii) only contains the hoist operator control noninterference requirement and subparagraph (b)(8)(iv) contains the pilot override criteria for the hoist control.

We modified subparagraph (d)(2) by deleting "danger of" from the first sentence. This change does not alter the intent of this requirement.

Subparagraph (d)(3)(iii)(B) was modified to incorporate more general terms to clarify the requirement.

We changed subparagraph (b)(10) to state a functional hazard assessment must address all failure conditions, not just those that represent catastrophic failure conditions. This change makes this SAR special condition requirement consistent with the requirements of § 29.1309.

We changed the second paragraph in subparagraph (e)(1)(ii) to a note. This "note" provides information only and is better characterized as a "note." The original wording was always intended to stand as a note, but it was not previously marked as one.

We removed the parenthetical from subparagraph (g)(4) as it is not needed. The intent of this requirement has not changed.

Finally, we clarified subparagraphs (g)(4)(i) and (g)(4)(ii), by changing "transition," "hover," and "cruise" to "transition modes," "hover modes," and "cruise modes," respectively. This general wording allows an applicant more flexibility in the use of SAR mode terminology.

Applicability

These special conditions apply to the ECF model EC225LP helicopters. Should ECF apply at a later date for a change to the TC to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well under the provisions of § 21.101(d).

Conclusion

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

List of Subjects in 14 CFR Part 29

Aircraft, Aviation safety.

The authority citation for these special conditions is as follows:

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

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the type certification basis for Eurocopter France model EC225LP helicopter, Type Certificate No. H4EU, is amended by removing Special Condition No. 29–022–SC from Docket No. SW022 (published in 73 FR 65968, November 6, 2088) and adding the following special conditions (No. 29–022A–SC) to the type certification basis when the optional Search and Rescue (SAR) Automatic Flight Control System (AFCS) is installed:

In addition to the part 29 certification requirements for Category A and helicopter instrument flight (Appendix B), the following additional requirements must be met for certification of the SAR AFCS:

(a) *SAR Flight Modes.* The coupled SAR flight modes must provide:

(1) Safe and controlled flight in three axes (lateral and longitudinal position/speed and height/vertical speed) at all airspeeds from instrument flight minimum speed (V_{MINI}) to a hover (within the maximum demonstrated wind envelope).

(2) Automatic transition to the helicopter instrument flight (Appendix B) envelope as part of the normal SAR mode sequencing.

(3) A pilot-selectable Go-Around mode that safely interrupts any other coupled mode and automatically transitions to the helicopter instrument flight (Appendix B) envelope.

(4) A means to prevent unintended flight below a safe minimum height. Pilot-commanded descent below the safe minimum height is acceptable provided the alerting requirements in (b)(7)(i) are sufficient to alert the pilot of this descent below safe minimum height.

(b) *SAR Mode System Architecture.* To support the integrity of the SAR modes, the following system architecture is required:

(1) A system for limiting the engine power demanded by the AFCS when any of the automatic piloting modes are engaged, so full authority digital engine control (FADEC) power limitations, such as torque and temperature, are not exceeded.

(2) A system providing the aircraft height above the surface and final pilot-selected height at a location on the instrument panel in a position acceptable to the FAA that will make it plainly visible to and usable by any pilot at their station.

(3) A system providing the aircraft heading and the pilot-selected heading at a location on the instrument panel in a position acceptable to the FAA that will make it plainly visible to and usable by any pilot at their station.

(4) A system providing the aircraft longitudinal and lateral ground speeds and the pilot-selected longitudinal and lateral ground speeds when used by the AFCS in the flight envelope where airspeed indications become unreliable. This information must be presented at a location on the instrument panel in a position acceptable to the FAA that is plainly visible to and usable by any pilot at their station.

(5) A system providing wind speed and wind direction when automatic piloting modes are engaged or transitioning from one mode to another.

(6) A system that monitors for flight guidance deviations and failures with an appropriate alerting function that enables the flight crew to take appropriate corrective action.

(7) An alerting system must provide visual or aural alerts, or both, to the flight crew under any of the following conditions:

(i) When the stored or pilot-selected safe minimum height is reached.

(ii) When a SAR mode system malfunction occurs.

(iii) When the AFCS changes modes automatically from one SAR mode to another.

Note: For normal transitions from one SAR mode to another, a single visual or aural alert may suffice. For a SAR mode malfunction or a mode having a time-critical component, the flight crew alerting system must activate early enough to allow the flight crew to take timely and appropriate action. The alerting system means must be designed to alert the flight crew in order to minimize crew errors that could create an additional hazard.

(8) The SAR system hoist operator control is considered a flight control with limited authority and must comply with the following:

(i) The hoist operator control must be designed and located to provide for convenient operation and to prevent confusion and inadvertent operation.

(ii) The helicopter must be safely controllable by the hoist operator control throughout the range of that control.

(iii) The hoist operator control may not interfere with the safe operation of the helicopter.

(iv) Pilot and copilot flight controls must be able to smoothly override the control authority of the hoist operator control, without exceptional piloting skill, alertness, or strength, and without the danger of exceeding any other limitation because of the override.

(9) The reliability of the AFCS must be related to the effects of its failure. The occurrence of any failure condition that would prevent continued safe flight and landing must be extremely improbable. For any failure condition of the AFCS which is not shown to be extremely improbable:

(i) The helicopter must be safely controllable and capable of continued safe flight without exceptional piloting skill, alertness, or strength. Additional unrelated probable failures affecting the control system must be evaluated.

(ii) The AFCS must be designed so that it cannot create a hazardous deviation in the flight path or produce hazardous loads on the helicopter during normal operation or in the event

of a malfunction or failure, assuming corrective action begins within an appropriate period of time. Where multiple systems are installed, subsequent malfunction conditions must be evaluated in sequence unless their occurrence is shown to be improbable.

(10) A functional hazard assessment (FHA) and a system safety assessment must be provided to address the failure conditions associated with SAR operations. For SAR catastrophic failure conditions, changes may be required to the following:

(i) System architecture.

(ii) Software and complex electronic hardware design assurance levels.

(iii) High Intensity Radiated Field (HIRF) test levels.

(iv) Instructions for continued airworthiness.

The assessments must consider all the systems required for SAR operations to include the AFCS, all associated AFCS sensors (for example, radio altimeter), and primary flight displays. Electrical and electronic systems with SAR catastrophic failure conditions (for example, AFCS) must comply with the § 29.1317(a)(4) HIRF requirements.

(c) *SAR Mode Performance Requirements.*

(1) The SAR modes must be demonstrated in the requested flight envelope for the following minimum sea-state and wind conditions:

(i) Sea State: Wave height of 2.5 meters (8.2 feet), considering both short and long swells.

(ii) Wind: 25 knots headwind; 17 knots for all other azimuths.

(2) The selected hover height and hover velocity must be captured (to include the transition from one captured mode to another captured mode) accurately and smoothly and not exhibit any significant overshoot or oscillation.

(3) For any single failure or any combination of failures of the AFCS that is not shown to be extremely improbable, the recovery must not result in a loss of height greater than half of the minimum use height (MUH) with a minimum margin of 15 feet above the surface. MUH is the minimum height at which any SAR AFCS mode can be engaged.

(4) The SAR mode system must be usable up to the maximum certified gross weight of the aircraft or to the lower of the following weights:

(i) Maximum emergency flotation weight.

(ii) Maximum hover Out-of-Ground Effect (OGE) weight.

(iii) Maximum demonstrated weight.

(d) *Flight Characteristics.*

(1) The basic aircraft must meet all the part 29 airworthiness criteria for helicopter instrument flight (Appendix B).

(2) For SAR mode coupled flight below V_{MINI}, at the maximum demonstrated winds, the helicopter must be able to maintain any required flight condition and make a smooth transition from any flight condition to any other flight condition without requiring exceptional piloting skill, alertness, or strength, and without exceeding the limit load factor. This requirement also includes aircraft control through the hoist operator's control.

(3) For SAR modes at airspeeds below V_{MINI}, the following requirements of Appendix B to part 29 must be met and will be used as an extension to the IFR certification envelope of the basic aircraft:

(i) Static Longitudinal Stability: The requirements of paragraph IV of Appendix B are not applicable.

(ii) Static Lateral-Directional Stability: The requirements of paragraph V of Appendix B are not applicable.

(iii) Dynamic Stability: The requirements of paragraph VI of Appendix B are replaced with the following two paragraphs:

(A) Any oscillation must be damped and any aperiodic response must not double in amplitude in less than 10 seconds. This requirement must also be met with degraded upper mode(s) of the AFCS. An "upper mode" is a mode that utilizes a fully coupled autopilot to provide an operational SAR profile.

(B) After any upset, the AFCS must return the aircraft to the last commanded position within 10 seconds or less.

(4) With any of the upper mode(s) of the AFCS engaged, the pilot must be able to manually recover the aircraft and transition to the normal (Appendix B) IFR flight profile envelope without exceptional skill, alertness, or strength.

(e) *One-Engine Inoperative (OEI) Performance Information.*

(1) The following performance information must be provided in the Rotorcraft Flight Manual Supplement (RFMS):

(i) OEI performance information and emergency procedures, providing the maximum weight that will provide a minimum clearance of 15 feet above the surface, following failure of the critical engine in a hover. The maximum weight must be presented as a function of the hover height for the temperature and pressure altitude range requested for certification. The effects of wind must be reflected in the hover performance information.

(ii) Hover OGE performance with the critical engine inoperative for OEI continuous and time-limited power ratings for those weights, altitudes, and temperatures for which certification is requested.

Note: These OEI performance requirements do not replace performance requirements that may be needed to comply with the airworthiness or operational standards (§ 29.865 or 14 CFR part 133) for external loads or human external cargo.

(f) *RFMS.*

(1) The RFMS must contain, at a minimum:

(i) Limitations necessary for safe operation of the SAR system to include:

(A) Minimum crew requirements.

(B) Maximum SAR weight.

(C) Engagement criteria for each of the SAR modes to include MUH (as determined in subparagraph (c)(3)).

(ii) Normal and emergency procedures for operation of the SAR system (to include operation of the hoist operator control), with AFCS failure modes, AFCS degraded modes, and engine failures.

(iii) Performance information:

(A) OEI performance and height-loss.

(B) Hover OGE performance information, utilizing OEI continuous and time-limited power ratings.

(C) The maximum wind envelope demonstrated in flight test.

(g) *Flight Demonstration.*

(1) Before approval of the SAR system, an acceptable flight demonstration of all the coupled SAR modes is required.

(2) The AFCS must provide fail-safe operations during coupled maneuvers. The demonstration of fail-safe operations must include a pilot workload assessment associated with manually flying the aircraft to an altitude greater than 200 feet above the surface and an airspeed of at least the best rate of climb airspeed (V_Y).

(3) For any failure condition of the SAR system not shown to be extremely improbable, the pilot must be able to make a smooth transition from one flight mode to another without exceptional piloting skill, alertness, or strength.

(4) Failure conditions that are not shown to be extremely improbable must be demonstrated by analysis, ground testing, or flight testing. For failures demonstrated in flight, the following normal pilot recovery times are acceptable:

(i) Transition modes (Cruise-to-Hover/Hover-to-Cruise) and Hover modes: Normal pilot recognition plus 1 second.

(ii) Cruise modes: Normal pilot recognition plus 3 seconds.

(5) All AFCS malfunctions must include evaluation at the low-speed and

high-power flight conditions typical of SAR operations. Additionally, AFCS hard-over, slow-over, and oscillatory malfunctions, particularly in yaw, require evaluation. AFCS malfunction testing must include a single or a combination of failures (for example, erroneous data from and loss of the radio altimeter, attitude, heading, and altitude sensors) which are not shown to be extremely improbable.

(6) The flight demonstration must include the following environmental conditions:

(i) Swell into wind.

(ii) Swell and wind from different directions.

(iii) Cross swell.

(iv) Swell of different lengths (short and long swell).

Issued in Fort Worth, Texas, on September 25, 2012.

Kimberly K. Smith,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2012–24676 Filed 10–4–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0798; Directorate Identifier 2012–CE–023–AD; Amendment 39–17208; AD 2012–20–02]

RIN 2120–AA64

Airworthiness Directives; Alpha Aviation Concept Limited Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for Alpha Aviation Concept Limited Model R2160 Airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as possible installation of non-conforming air filter elements that are not fitted with metallic mesh and could internally collapse resulting in disruption of the powerplant operation. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective November 9, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of November 9, 2012.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this AD, contact Alpha Aviation, 59 Hautapu Road, RD 1, Cambridge 3493, New Zealand; telephone: +64 7 827 0528; fax: +64 7 929 2878; Internet: *www.alphaaviation.co.nz/publications.shtml.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

FOR FURTHER INFORMATION CONTACT: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; fax: (816) 329–4090; email: *karl.schletzbaum@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on July 30, 2012 (77 FR 44511). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> This emergency AD with the effective date 11 June 2012 is prompted by a report from EASA of finding a non conforming air filter fitted to an overseas aircraft during maintenance. Investigation revealed that air filters with P/N 57.34.00.010 supplied by CEAPR between June 2009 and April 2012 may not have the metallic mesh inside the filter. This AD mandates an inspection of air filters with P/N 57.34.00.010 to determine if a metallic mesh is fitted.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (77 FR 44511, July 30, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 44511, July 30, 2012).

Costs of Compliance

We estimate that this AD will affect 10 products of U.S. registry. We also estimate that it will take about .5 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this AD on U.S. operators to be $425, or 42.50 per product.

In addition, we estimate that any necessary follow-on actions will take about .5 work-hour and require parts costing $100 for a cost of $142.50 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

(2) Is not a "significant rule" under the DOT Regulatory Policies and

Procedures (44 FR 11034, February 26, 1979),

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2012–20–02 Alpha Aviation Concept Limited: Amendment 39–17208; Docket No. FAA–2012–0798; Directorate Identifier 2012–CE–023–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective November 9, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Alpha Aviation Concept Limited Model R2160 airplanes, all serial numbers, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 71: Power Plant.

(e) Reason

This AD was prompted by reports of possible installation of non-conforming air filter elements that are not fitted with metallic mesh and could internally collapse resulting in disruption of the powerplant operation. We are issuing this AD to inspect the air filter element and replace if applicable.

(f) Actions and Compliance

Unless already done, do the following actions following Alpha Aviation Service Bulletin AA–SB–71–006, dated May 2012:

(1) Within the next 30 days time-in-service (TIS) after November 9, 2012 (the effective date of this AD), inspect the air filter part number (P/N) 57.34.00.010 to determine if it has been fitted with a perforated metal liner.

(2) If, after the inspection required in paragraph (f)(1) of this AD, the air filter part number (P/N) 57.34.00.010 is found to include the perforated metal liner, no further action is required.

(3) If, after the inspection required in paragraph (f)(1) of this AD, the air filter is found to not contain the perforated metal liner, before further flight, replace the air filter with a new air filter P/N 57.34.00.010 that does contain the perforated metal liner.

(4) After November 9, 2012 (the effective date of this AD), do not install any air filter P/N 57.34.00.010 that does not have the perforated metal liner depicted in Alpha Aviation Service Bulletin AA–SB–71–006, dated May 2012.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; fax: (816) 329–4090; email: *karl.schletzbaum@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(3) *Reporting Requirements:* For any reporting requirement in this AD, a federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(h) Related Information

Refer to MCAI DCA/R2000/41 issued by the Civil Aviation Authority (CAA), which is the aviation authority for New Zealand, dated June 8, 2012; and Alpha Aviation Service Bulletin AA–SB–71–006, dated May 2012, for related information. For service information related to this AD, contact Alpha Aviation, 59 Hautapu Road, RD 1, Cambridge 3493, New Zealand; telephone: +64 7 827 0528; fax: +64 7 929 2878; Internet: *www.alphaaviation.co.nz/publications.shtml.* 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.

(i) Material Incorporated by Reference

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

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

(i) Alpha Aviation Service Bulletin AA–SB–71–006, dated May 2012.

(ii) Reserved.

(3) For Alpha Aviation service information identified in this AD, contact Alpha Aviation, 59 Hautapu Road, RD 1, Cambridge 3493, New Zealand; telephone: +64 7 827 0528; fax: +64 7 929 2878; Internet: *www.alphaaviation.co.nz/publications.shtml.*

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

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

Issued in Kansas City, Missouri, on September 26, 2012.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–24278 Filed 10–4–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0491; Directorate Identifier 2011–NM–265–AD; Amendment 39–17207; AD 2012–20–01]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 737–100, –200, and –200C series airplanes. This AD was prompted by a report of a severed upper butt strap, and cracks in the forward skin and bonded doubler, on one airplane. This AD requires repetitive inspections for cracks and a chemical spot test in the area of station (STA) 908, and related investigative and corrective actions, if necessary. For certain airplanes, this AD requires an inspection and modification. We are issuing this AD to prevent cracks at the adjacent mating skins (forward and aft), which could initiate just above stringers S–4R and S–4L; and could grow and result in a decompression event.

DATES: This AD is effective November 9, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of November 9, 2012.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA 98057–3356. For information on the availability of this material at the FAA, call (425) 227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 917–6447; fax: (425) 917–6590; email: *wayne.lockett@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM published in the **Federal Register** on June 4, 2012 (77 FR 32918). That NPRM proposed to require repetitive inspections for cracks and a chemical spot test in the area of STA 908, and related investigative and corrective actions, if necessary. For certain airplanes, that NPRM also proposed to require an inspection and modification.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comment received on the proposal (77 FR 32918, June 4, 2012) and the FAA's response to the comment.

Request To Relocate Terminating Action Statement

Boeing requested that we relocate the terminating action statement related to confirmed 2000 series aluminum from paragraph (h)(2) of the NPRM (77 FR 32918, June 4, 2012) to paragraph (j) of the NPRM.

We disagree with the request to relocate the sentence. The terminating action specified in paragraph (h)(2) of this AD only terminates the actions specified in paragraph (h)(1) of this AD. Paragraph (j) of the AD allows operators to forego all requirements of this AD, including the initial inspection, repetitive inspections, and chemical spot test requirements, by replacing the butt strap with a new part made of the correct material, and doing related investigative and corrective actions, as applicable. No change has been made to the AD in this regard.

Conclusion

We reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

We estimate that this AD affects 61 airplanes of U.S registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection and test	166 work-hours × $85 per hour = $14,110 per inspection cycle.	$0	$14,110 per inspection cycle.	$860,710 per inspection cycle.

In addition, we have received no definitive data that would enable us to provide cost estimates for the actions that would be required for Group 1 airplanes.

We estimate the following costs to do any necessary related investigative actions, repairs, and installations that would be required based on the results of the inspection and test. We have no way of determining the number of aircraft that might need these actions:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Related investigative actions, repair, installation	173 work-hours × $85 per hour = $14,705	$0	$14,705

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2012–20–01 The Boeing Company: Amendment 39–17207; Docket No. FAA–2012–0491; Directorate Identifier 2011–NM–265–AD.

(a) Effective Date

This AD is effective November 9, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 737–100, –200, and –200C series airplanes; certificated in any category; as identified in Boeing Special Attention Service Bulletin 737–53–1313, dated November 3, 2011.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report of a severed upper butt strap, and cracks in the forward skin and bonded doubler, on one airplane. We are issuing this AD to prevent cracks at the adjacent mating skins (forward and aft), which could initiate just above stringers S–4R and S–4L; and could grow and result in a decompression event.

(f) Compliance

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

(g) Actions for Group 1 Airplanes

For Group 1 airplanes, as identified in Boeing Special Attention Service Bulletin 737–53–1313, dated November 3, 2011: Within 120 days after the effective date of this AD, inspect and modify, as required, using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(h) Actions for Groups 2 and 3 Airplanes

For Groups 2 and 3 airplanes, as identified in Boeing Special Attention Service Bulletin 737–53–1313, dated November 3, 2011: Except as provided by paragraph (i)(1) of this AD, at the applicable times identified in paragraph 1.E., "Compliance," of Boeing Special Attention Service Bulletin 737–53–1313, dated November 3, 2011, do the actions specified in paragraphs (h)(1) and (h)(2) of this AD, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–53–1313, dated November 3, 2011, except as provided by paragraph (i)(2) of this AD.

(1) Do one of the inspection options identified in paragraphs (h)(1)(i), (h)(1)(ii), and (h)(1)(iii) of this AD; and do all applicable related investigative and corrective actions. Do all applicable related investigative and corrective actions before further flight.

(i) Inspection Option 1: Do a detailed inspection for cracks of the station (STA) 908 forward and aft skin. Thereafter, repeat the inspection at intervals not to exceed 500 flight cycles until the chemical spot test required by paragraph (h)(2) of this AD is done.

(ii) Inspection Option 2: Do a one-time external low-frequency eddy current (LFEC) inspection for cracks of the STA 908 upper butt strap.

(iii) Inspection Option 3: Do a one-time internal LFEC inspection for cracks of the STA 908 upper butt strap.

(2) Do a chemical spot test of the STA 908 upper butt strap to determine the part material, and do all applicable related investigative and corrective actions. Do all applicable related investigative and corrective actions at the times specified in paragraph 1.E., "Compliance," of Boeing Special Attention Service Bulletin 737–53–1313, dated November 3, 2011, except as provided by paragraph (i)(1) of this AD. Confirming the upper butt strap is made from 2000 series aluminum terminates the inspections required by paragraph (h)(1) of this AD.

(i) Exceptions to the Service Information

(1) Where Boeing Special Attention Service Bulletin 737–53–1313, dated November 3, 2011, specifies a compliance time "after the original issue date of the service bulletin," this AD requires compliance within the specified compliance time after the effective date of this AD.

(2) Where Boeing Special Attention Service Bulletin 737–53–1313, dated November 3, 2011, specifies to contact Boeing for repair

instructions: Before further flight, repair using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(j) Terminating Action

Replacing the STA 908 upper butt strap and doing all applicable related investigative and corrective actions, in accordance with Part 4, Part 5, and Part 6, of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–53–1313, dated November 3, 2011, except as provided by paragraph (i)(2) of this AD, terminates the inspections and chemical spot test required by this AD.

(k) Alternative Methods of Compliance (AMOCs)

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

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

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

(l) Related Information

For more information about this AD, contact Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 917–6447; fax: (425) 917–6590; email: *wayne.lockett@faa.gov.*

(m) Material Incorporated by Reference

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

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

(i) Boeing Special Attention Service Bulletin 737–53–1313, dated November 3, 2011.

(ii) Reserved.

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

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

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

Issued in Renton, Washington, on September 21, 2012.

Ali Bahrami,

Manager, Transpart Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–24280 Filed 10–4–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0492; Directorate Identifier 2010–NM–126–AD; Amendment 39–17209; AD 2012–20–03]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding an existing airworthiness directive (AD) for certain The Boeing Company Model 747 airplanes. That AD currently requires repetitive visual inspections around the bushings of the wing landing gear (WLG) beam outboard end fittings for corrosion, and rework if necessary; and ultrasonic inspections for cracks of the outboard end fittings of the WLG support beams, and rework if necessary. This new AD adds airplanes and adds repetitive inspections of the outboard end fitting of the left and right WLG support beams for cracks and corrosion, and corrective actions if necessary. This AD was prompted by new reports of corrosion damage to the end fittings of the WLG support beams, and one report of subsequent cracking in the end fittings. We are issuing this AD to detect and correct corrosion and subsequent cracking in the outboard end fittings, which could result in separation of the fitting and damage to adjacent flight control cables and hydraulic systems and consequent reduced controllability of the airplane.

DATES: This AD is effective November 9, 2012.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of November 9, 2012.

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

Examining the AD Docket

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

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 89–15–07, Amendment 39–6267 (54 FR 30009, July 18, 1989). That AD applies to the specified products. The NPRM published in the **Federal Register** on May 31, 2012 (77 FR 32064). That NPRM proposed to continue to require repetitive visual inspections around the bushings of the wing landing gear (WLG) beam outboard end fittings for corrosion, and rework if necessary; and ultrasonic inspections for cracks of the outboard end fittings of the WLG support beams, and rework if necessary. That NPRM also proposed to add airplanes and repetitive inspections of the outboard end fitting of the left and right WLG support beams for cracks and

corrosion, and corrective actions if necessary.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (77 FR 32064, May 31, 2012) and the FAA's response to each comment.

Request To Change Certain Language in Paragraph (s) of the NPRM (77 FR 32064, May 31, 2012)

Boeing asked that the following sentence be added to paragraph (s) of the NPRM (77 FR 32064, May 31, 2012): "After accomplishing the repair or change in accordance with Part 7 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009, do the applicable actions required by paragraph (r) of this AD." Boeing stated that the follow-on inspections are required after accomplishing the repair or replacement in Part 7. Boeing added that paragraph (q) of the NPRM contains a similar requirement for Groups 1 through 5 airplanes.

We partially agree with the commenter. We agree that the language specified in paragraphs (q) and (s) of the NPRM (77 FR 32064, May 31, 2012) is inconsistent. However, we do not agree to include the additional sentence in paragraph (s) of this final rule because it would continue to restate redundant information, and may further confuse operators. Therefore, we have removed "* * * do the applicable actions required by paragraph (p) of this AD," as was specified in paragraph (q) of the NPRM, in order to provide consistency between those related paragraphs.

Request To Include Certain Part Numbers (P/Ns) in the NPRM (77 FR 32064, May 31, 2012)

Qantas Airways (QAN) asked that the NPRM (77 FR 32064, May 31, 2012) be reviewed to accurately capture all approved part numbers for end fitting replacements. QAN stated that, for its Model 747–400 Configuration 6 airplanes, Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009, specifies that if a replacement spare end fitting is required, an end fitting assembly having P/N 112U1701–1 is to be used for that replacement. QAN noted that the parts page inventory list from the original equipment manufacturer (OEM) shows that P/N 112U1701–1 is no longer available and has been replaced with P/N 112U2701–7. QAN also noted that P/N 65B14473–23 and P/N 65B14473–24 are no longer available and have been replaced by P/N 65B14473–33 and P/N 65B14473–34, respectively. QAN added that these replacement parts are not identified in the referenced service information. QAN also stated that, if any of the replacement parts are used, it will be forced to request an alternative method of compliance (AMOC) from the OEM to approve the use of an alternate part in order to comply with the AD requirements.

We acknowledge the commenter's concerns. However, as specified in the NPRM (77 FR 32064, May 31, 2012), since issuance of AD 89–15–07, Amendment 39–6267 (54 FR 30009, July 18, 1989), corrosion occurred again at the lug bore and bushing interface because moisture continued to develop in that area due to exposure of the end fittings to environmental conditions. Subsequently, cracks occurred at the corroded areas of the end fittings; therefore, the unsafe condition specified in the existing AD has not been corrected. We find that issuing this AD without further delay is necessary to adequately address the identified unsafe condition. Operators may submit a request for approval of the replacement part numbers (P/Ns) through an AMOC, as specified in paragraph (u) of the AD. We have not changed the AD in this regard.

Request To Change Certain Paragraph Identifiers in the NPRM (77 FR 32064, May 31, 2012)

Boeing and Atlas Air asked that the paragraph identifier in the last sentence in paragraph (l) of the NPRM (77 FR 32064, May 31, 2012) be changed from paragraph (j) to paragraph (p). Boeing and Atlas Air stated that paragraph (j) of the NPRM would not be applicable since it applies to inspections of the end fittings prior to accomplishing the repair or replacement in Part 7 of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009. Atlas Air added that paragraph (p) of the NPRM defines the procedures for follow-on end fitting inspections on which the repair or replacement specified in Part 7 has been done.

Boeing, Atlas Air, and UPS asked that the paragraph identifier in the last sentence in paragraph (n) of the NPRM (77 FR 32064, May 31, 2012) be changed from paragraph (m) to paragraph (r). Boeing, Atlas Air, and UPS stated that paragraph (m) of the NPRM applies to inspections of the end fittings prior to accomplishing the repair or replacement in Part 7 of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009. Atlas Air added that paragraph (r) of the NPRM defines the procedures for follow-on end fitting inspections on which the repair or replacement specified in Part 7 has been done.

We agree with the commenters for the reasons provided. We have changed the paragraph identifiers in paragraphs (l) and (n) of this AD accordingly.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We also determined that these changes will not increase the economic burden on any operator or increase the scope of the AD.

Explanation of Change to Costs of Compliance

Since issuance of AD 89–15–07, Amendment 39–6267 (54 FR 30009, July 18, 1989), we have increased the labor rate used in the Costs of Compliance from $40 per work-hour to $85 per work-hour. The Costs of Compliance information, below, reflects this increase in the specified labor rate.

Costs of Compliance

We estimate that this AD affects 173 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections [retained actions from existing AD 89–15–07, Amendment 39-6267 (54 FR 30009, July 18, 1989)].	10 work-hours × $85 per hour = $850 per inspection cycle.	$0	$850 per inspection cycle	$147,050 per inspection cycle.

ESTIMATED COSTS—Continued

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections [new action]	Up to 67 work-hours × $85 per hour = $5,695 per inspection cycle, depending on configuration.	$0	Up to $5,695 per inspection cycle, depending on configuration.	Up to $985,235 per inspection cycle, depending on configuration.

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Repair or replacement	Up to 71 work-hours × $85 per hour = $6,035, depending on configuration.	Up to $26,436, depending on configuration.	Up to $32,471, depending on configuration.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 89–15–07, Amendment 39–6267 (54 FR 30009, July 18, 1989), and adding the following new AD:

2012–20–03 The Boeing Company: Amendment 39–17209; Docket No. FAA–2012–0492; Directorate Identifier 2010–NM–126–AD.

(a) Effective Date

This airworthiness directive (AD) is effective November 9, 2012.

(b) Affected ADs

This AD supersedes AD 89–15–07, Amendment 39–6267 (54 FR 30009, July 18, 1989).

(c) Applicability

This AD applies to The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes; certificated in any category; as identified in Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 57, Wings.

(e) Unsafe Condition

This AD was prompted by new reports of corrosion damage to the end fittings of the wing landing gear (WLG) support beams, and one report of subsequent cracking in the end fittings. We are issuing this AD to detect and correct corrosion and subsequent cracking in the outboard end fittings, which could result in separation of the fitting and damage to adjacent flight control cables and hydraulic systems and consequent reduced controllability of the airplane.

(f) Compliance

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

(g) Retained Repetitive Inspections With Revised Compliance Times

This paragraph restates the requirements of paragraphs A., B., C., and D., of AD 89–15–07, Amendment 39–6267 (54 FR 30009, July 18, 1989) with revised compliance times. For airplanes identified in Boeing Service Bulletin 747–57–2244, Revision 1, dated July 28, 1988: Prior to the accumulation of 30,000 flight hours or 8 years in service, whichever occurs first; or within the next 14 months after August 22, 1989 (the effective date of AD 89–15–07); whichever occurs later; visually inspect around the fitting lug bushings at the WLG beam outboard end fittings for corrosion, and ultrasonically inspect the WLG beam outboard end fittings for cracks, in accordance with Boeing Service Bulletin 747–57–2244, Revision 1, dated July 28, 1988. Accomplishing the initial inspections required by paragraph (j) of this AD terminates the inspections required by this paragraph.

(1) If no cracking or corrosion is found, repeat the inspections at intervals not to exceed 18 months until paragraph (j) of this AD has been accomplished.

(2) If cracking is found, prior to further flight, remove the WLG beam outboard

fitting, and rework, in accordance with Boeing Service Bulletin 747–57–2244, Revision 1, dated July 28, 1988.

(3) If only corrosion is found, within the next 12 months, rework in accordance with Boeing Service Bulletin 747–57–2244, Revision 1, dated July 28, 1988. The ultrasonic inspections for cracks required by paragraph (g) of this AD must be accomplished at intervals not to exceed 6 months until the rework is accomplished. For any corrosion that is found after the effective date of this AD, the rework must be done before further flight.

(h) Retained Terminating Action

This paragraph restates the requirements of paragraph E., of AD 89–15–07, Amendment 39–6267 (54 FR 30009, July 18, 1989). Terminating action for the inspections required by paragraph (g) of this AD consists of rework of the WLG beam outboard fittings, in accordance with Boeing Service Bulletin 747–57–2244, Revision 1, dated July 28, 1988.

(i) New Compliance Times for This AD

For all the actions identified in paragraphs (j) through (t) of this AD, do the actions at the applicable time specified in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009. Where paragraph 1.E., "Compliance" of this service bulletin specifies a compliance time relative to the original issue date of the service bulletin, this AD requires compliance within the specified compliance time after the effective date of this AD.

(j) New Repetitive Inspections for Groups 1 Through 5 Airplanes

For Groups 1 through 3 airplanes, Configurations 1 and 2; and Groups 4 and 5 airplanes: Do detailed and ultrasonic inspections of the end fittings for cracks and corrosion, in accordance with Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009.

(k) New Inspections for No Crack or Corrosion Findings for Groups 1 Through 5 Airplanes

If no crack or corrosion is found during any inspection required by paragraph (j) of this AD, do either of the actions required by paragraph (k)(1) or (k)(2) of this AD.

(1) Repeat the detailed and ultrasonic inspections of the end fittings for cracks and corrosion, in accordance with Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009.

(2) Do a detailed inspection of the end fittings for fillet seal damage and for cracks and corrosion, in accordance with Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009.

(i) If no fillet seal damage, crack, or corrosion is found: Repeat the inspection required by paragraph (k)(2) of this AD.

(ii) If any fillet seal damage is found, but no crack or corrosion is found: Remove the fillet seal, and do detailed and HFEC inspections of each end fitting for cracks and corrosion, in accordance with Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009.

(A) If any crack or corrosion is found: Repair or change the end fitting, in accordance with paragraph (l) of this AD.

(B) If no crack or corrosion is found: Apply corrosion inhibiting compound on each end fitting, in accordance with Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009; and do detailed and HFEC inspections of each end fitting for cracks and corrosion, in accordance with Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009.

(*1*) If no crack or corrosion is found: Apply corrosion inhibiting compound on each end fitting, in accordance with Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009, and thereafter repeat the inspections required by paragraph (k)(2)(ii)(B) of this AD.

(*2*) If any crack or corrosion is found: Repair or change the end fitting, in accordance with paragraph (l) of this AD.

(l) New Repair for Crack or Corrosion Findings for Groups 1 Through 5 Airplanes

If any crack or corrosion is found during any inspection required by paragraph (j) or (k) of this AD: Repair or change the end fitting, in accordance with Part 7 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009. After accomplishing the repair or change in accordance with Part 7 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009, do the applicable actions required by paragraph (p) of this AD.

(m) New Repetitive Inspections and Corrective Actions for Group 6 Airplanes

For Group 6 airplanes: Do a detailed inspection of the end fittings for fillet seal damage and for cracks and corrosion, in accordance with Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009.

(1) If no fillet seal damage, crack, or corrosion is found: Do the detailed inspection of the end fittings for fillet seal damage and for cracks and corrosion, in accordance with Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009.

(i) If no fillet seal damage, crack, or corrosion is found: Repeat the detailed inspection required by paragraph (m)(1) of this AD.

(ii) If any fillet seal damage is found, but no crack or corrosion is found: Remove the fillet seal, and do detailed and HFEC inspections of each end fitting for cracks and corrosion, in accordance with Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009.

(A) If any crack or corrosion is found: Repair or change the end fitting, in accordance with paragraph (n) of this AD.

(B) If no crack or corrosion is found: Apply corrosion inhibiting compound on each end fitting, in accordance with Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009; and do detailed and HFEC inspections of each end fitting for cracks and corrosion, in accordance with Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009.

(*1*) If any crack or corrosion is found: Repair or change the end fitting, in accordance with paragraph (n) of this AD.

(*2*) If no crack or corrosion is found: Apply corrosion inhibiting compound, in accordance with Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009, and thereafter repeat the inspections required by paragraph (m)(1)(ii)(B) of this AD.

(2) If any fillet seal damage is found, but no crack or corrosion is found: Remove the fillet seal, and do detailed and HFEC inspections of each end fitting for cracks and corrosion, in accordance with Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009.

(i) If any crack or corrosion is found: Repair or change the end fitting, in accordance with paragraph (n) of this AD.

(ii) If no crack or corrosion is found: Apply corrosion inhibiting compound on each end fitting, in accordance with Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009; and do detailed and HFEC inspections of each end fitting for cracks and corrosion, in accordance with Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009.

(A) If any crack or corrosion is found: Repair or change the end fitting, in accordance with paragraph (n) of this AD.

(B) If no crack or corrosion is found: Apply corrosion inhibiting compound, in accordance with Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009, and thereafter repeat the inspections required by paragraph (m)(2)(ii) of this AD.

(n) New Repair for Group 6 Airplanes

If any crack or corrosion is found during any inspection required by paragraph (m) of this AD: Repair or change the end fitting, in accordance with Part 7 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009. After accomplishing the repair or change in accordance with Part 7 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009, do the applicable actions required by paragraph (r) of this AD.

(o) New Optional Terminating Action for Part 1, Part 2, and Part 3 Inspections

In lieu of doing Part 1, Part 2, or Part 3 inspections required by this AD: Repair or change the end fitting, in accordance with Part 7 of the Accomplishment Instructions of

Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009. After accomplishing the repair or change in accordance with Part 7 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009, do the applicable actions required by paragraphs (p) and (r) of this AD. Doing the repair or change terminates the Part 1, 2, or 3 inspections for that part only of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009.

(p) New Follow-On End Fitting Inspection for Groups 1 Through 5 Airplanes

For Groups 1 through 5 airplanes on which the repair or change specified in Part 7 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009, has been done: Do detailed and ultrasonic inspections of the end fittings for cracks and corrosion, in accordance with Part 4 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009. If no crack or corrosion is found, do the actions required by either paragraph (p)(1) or (p)(2) of this AD.

(1) Repeat the detailed and ultrasonic inspections of the end fittings for cracks and corrosion required by paragraph (p) of this AD.

(2) Do a detailed inspection of each end fitting for fillet seal damage, cracks, and corrosion, in accordance with Part 5 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009.

(i) If no fillet seal damage, crack, or corrosion is found: Repeat the inspection required by paragraph (p)(2) of this AD.

(ii) If any fillet seal damage is found, but no crack or corrosion is found: Remove the fillet seal, and do detailed and HFEC inspections of each end fitting for cracks and corrosion, in accordance with Part 5 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009.

(A) If any crack or corrosion is found: Repair or change the end fitting, as required by paragraph (q) of this AD.

(B) If no crack or corrosion is found: Apply corrosion inhibiting compound on each end fitting, in accordance with Part 5 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009; and do detailed and HFEC inspections of each end fitting for cracks and corrosion, in accordance with Part 6 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009.

(1) If any crack or corrosion is found: Repair or change the end fitting, as required by paragraph (q) of this AD.

(2) If no crack or corrosion is found: Apply corrosion inhibiting compound, in accordance with Part 6 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009; and repeat the detailed and HFEC inspections of each end fitting for cracks and corrosion, in accordance with Part 6 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009.

(q) New Repair for Groups 1 Through 5 Airplanes

If any crack or corrosion is found during any inspection required by paragraph (p) of this AD, repair or change the end fitting, in accordance with Part 7 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009.

(r) New Follow-On End Fitting Inspection for Group 6 Airplanes

For Group 6 airplanes on which the repair or change specified in Part 7 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009, has been done: Do a detailed inspection of the end fittings for fillet seal damage, cracks, and corrosion, in accordance with Part 4 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009.

(1) If no fillet seal damage, crack, or corrosion is found: Do a detailed inspection of each end fitting for fillet seal damage, cracks, and corrosion, in accordance with Part 5 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009.

(i) If no fillet seal damage, crack, or corrosion is found: Repeat the inspection required by paragraph (r)(1) of this AD.

(ii) If any fillet seal damage is found, but no crack or corrosion is found: Do detailed and HFEC inspections of each end fitting for cracks and corrosion, in accordance with Part 5 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009.

(A) If any crack or corrosion is found: Repair or change the end fitting as required by paragraph (s) of this AD.

(B) If no crack or corrosion is found: Apply corrosion inhibiting compound on each end fitting, in accordance with Part 5 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009; and repeat the detailed and HFEC inspections of each end fitting for cracks and corrosion, in accordance with Part 6 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009.

(1) If any crack or corrosion is found: Repair or change the end fitting, in accordance with Part 7 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009.

(2) If no crack or corrosion is found: Apply corrosion inhibiting compound, in accordance with Part 6 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009; and repeat the detailed and HFEC inspections of each end fitting for cracks and corrosion, in accordance with Part 6 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009.

(2) If any fillet seal damage is found, but no crack or corrosion is found: Do detailed and HFEC inspections of each end fitting for cracks and corrosion, in accordance with Part 4 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009.

(i) If any crack or corrosion is found: Repair or change the end fitting, as required by paragraph (s) of this AD.

(ii) If no crack or corrosion is found: Apply corrosion inhibiting compound on each end fitting, in accordance with Part 4 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009; and do detailed and HFEC inspections of each end fitting for cracks and corrosion, in accordance with Part 6 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009.

(A) If any crack or corrosion is found: Repair or change the end fitting, as required by paragraph (s) of this AD.

(B) If no crack or corrosion is found: Apply corrosion inhibiting compound, in accordance with Part 6 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009; and repeat the detailed and HFEC inspections of each end fitting for cracks and corrosion, in accordance with Part 6 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009.

(s) New Repair for Group 6 Airplanes

If any crack or corrosion is found during any inspection required by paragraph (r) of this AD, repair or change the end fitting, in accordance with Part 7 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009.

(t) New Optional Action for Part 4, Part 5, and Part 6 Inspections

In lieu of doing Part 4, Part 5, or Part 6 inspections required by this AD: Repair or change the end fitting, in accordance with Part 7 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009. After accomplishing the repair or change in accordance with Part 7 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009, do the applicable actions required by paragraphs (p) and (r) of this AD.

(u) Alternative Methods of Compliance (AMOCs)

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

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager

of the local flight standards district office/certificate holding district office.

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

(4) AMOCs approved previously in accordance with AD 89–15–07, Amendment 39–6267 (54 FR 30009, July 18, 1989), are approved as AMOCs for the corresponding requirements of this AD.

(v) Related Information

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

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

(w) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 747–57A2331, dated November 12, 2009.

(ii) Boeing Service Bulletin 747–57–2244, Revision 1, dated July 28, 1988.

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

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

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

Issued in Renton, Washington, on September 26, 2012.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–24412 Filed 10–4–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2012–0888]

Drawbridge Operation Regulation; Delaware River, Between Burlington, NJ and Bristol, PA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District, has issued a temporary deviation from the regulations governing the operation of the Burlington-Bristol Bridge on Route 413, across the Delaware River, at mile 117.8, between Burlington, NJ and Bristol, PA. This deviation restricts the operation of the draw span in order to facilitate the adjustment of the operating lift cables.

DATES: This deviation is effective from 7 a.m. on October 30, 2012 to 3 p.m. on November 1, 2012.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2012–0888 and are available online by going to *http://www.regulations.gov,* inserting USCG–2012–0888 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 or email Terrance Knowles, Environmental Protection Specialist, Fifth Coast Guard District; telephone 757–398–6587, email *Terrance.A.Knowles@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Burlington County Bridge Commission, who owns and operates this vertical-lift type drawbridge, has requested a temporary deviation from the current operating regulations set out in 33 CFR 117.5 and 117.716(b) to facilitate the adjustment of the operational lift cables.

The Burlington-Bristol Bridge on Route 413, at mile 117.8, across the Delaware River, between Burlington NJ and Bristol PA, has a vertical clearance in the closed position to vessels of 62 feet above mean high water.

Under the regular operating schedule the bridge opens on signal as required by 33 CFR 117.5 and the opening of a bridge may not be delayed more than five minutes for a highway bridge, after the signal to open is given as required by 33 CFR 117.716(b).

Under this temporary deviation, the Burlington-Bristol Bridge will be closed to navigation and unable to open on signal each day from 7 a.m. until 3 p.m. on October 30, 2012 and November 1, 2012.

Vessels that can pass under the bridge without a drawbridge opening may do so at all times. There are no alternate routes for vessels transiting this section of the Delaware River.

There are approximately four to six vessels per week from four facilities whose vertical clearance surpasses the closed bridge position, requiring an opening of the draw span. The Coast Guard has coordinated this replacement work with the Mariners' Advisory Committee for the Bay & River Delaware, and will inform the other users of the waterway through our Local and Broadcast Notices to Mariners of the closure periods for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation. The bridge will not be able to open in an emergency during lift cable tension adjustments.

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

Dated: September 25, 2012.

Waverly W. Gregory, Jr.,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2012–24598 Filed 10–4–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–0884]

RIN 1625–AA00

Safety Zone: America's Cup World Series Finish-Line, San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the navigable waters of the San Francisco Bay in vicinity of San Francisco West Yacht Harbor Light 2, approximately 1,250 yards east of Anita Rock in San Francisco Bay, in support of the 2012 America's Cup World Series sailing events. This safety zone is established to ensure the safety of mariners and spectators from the dangers of vessel collision associated with high-speed race finishes that will occur in vicinity of San Francisco West Yacht Harbor Light 2. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zone without permission of the Captain of the Port or their designated representative.

DATES: This rule is effective from noon on October 4, 2012 until 4 p.m. on October 7, 2012.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2012–0884. 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 temporary rule, call or email Lieutenant DeCarol Davis, U.S. Coast Guard Sector San Francisco; telephone (415) 399–7443 or email at *D11-PF-MarineEvents@uscg.mil*. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

APA Administrative Procedure Act
DHS Department of Homeland Security
FR **Federal Register**
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest."

Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because publishing an NPRM would be contrary to the public interest. The Coast Guard received notification of the America's Cup Race Management's intentions to finish the races in the subject location on September 18, 2012, and the event would occur before the rulemaking process would be completed. Because of the dangers posed by the high-speeds of vessels operating in the subject area during race finishes, the safety zone is necessary to provide for the safety of event participants, spectators, spectator craft, and other vessels transiting the event area. For the safety concerns noted, it is in the public interest to have these regulations in effect during the event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. For the reasons stated above, delaying the effective date would be contrary to the public interest.

B. Basis and Purpose

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

America's Cup Race Management, in conjunction with San Francisco Bay Fleet Week, will be conducting sailing races from Thursday, October 4, 2012, through Sunday, October 7, 2012, for the 2012 America's Cup World Series. The Coast Guard intends to enforce a temporary safety zone in order to protect spectators and participants from vessel collision during high-speed race finishes that will occur in vicinity of San Francisco West Yacht Harbor Light 2. This safety zone establishes a temporary restricted area on the waters 350 yards around position 37°48′32″ N, 122°26′24″ W (NAD 83) as depicted in National Oceanic and Atmospheric Administration (NOAA) Chart 18649. The sailing events are meant for entertainment purposes and the safety zone is issued to establish a temporary restricted area on the waters surrounding the event finish-line. Due to the large number of craft confined within this small area of water and the high speeds of event participants, this action in needed to protect both participant and spectator vessels from the risk of collision in vicinity of the finish-line.

C. Discussion of the Final Rule

The Coast Guard will enforce a temporary safety zone in the navigable waters of San Francisco Bay in vicinity of San Francisco West Yacht Harbor Light 2, which is stationed approximately 1,250 yards east of Anita Rock in San Francisco Bay. This safety zone is to support the 2012 America's Cup World Series regattas being conducted in conjunction with San Francisco Bay Fleet Week. During Fleet Week, which is scheduled to take place from Thursday, October 4, 2012 until Sunday, October 7, 2012, America's Cup will be conducting two races per day. Each of these races will be approximately an hour long and occur between the hours of 11:15 a.m. and 6:30 p.m. At the end of each race, the Coast Guard will enforce a 350-yard safety zone around position 37°48′32″ N, 122°26′24″ W (NAD 83). At the conclusion of the sailing regattas the safety zone shall terminate.

The effect of the temporary safety zone will be to restrict navigation in the vicinity of the America's Cup World Series finish-line, which will be located near San Francisco West Yacht Harbor Light 2. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the restricted area. These regulations are needed to keep spectators and vessels away from high-speed race finishes to ensure the safety of participants, spectators, and transiting vessels.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory

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

The economic impact of this rule is not significant because the safety zone is limited in duration, and is limited to a narrowly tailored geographic area. In addition, although this rule restricts access to the waters encompassed by the safety zone, the effect of this rule will not be significant because the local waterway users will be notified via public Broadcast Notice to Mariners to ensure the safety zone will result in minimum impact. The entities most likely to be affected are waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: Owners and operators of waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities and sightseeing, if these facilities or vessels are in the vicinity of the safety zone at times when this zone is being enforced. This rule will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) This rule will encompass only a small portion of the waterway for a limited period of time, and (ii) the maritime public will be advised in advance of this safety zone via 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. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

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

4. Collection of Information

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

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded 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 a safety zone of limited size and duration. This rule is categorically excluded from further review under paragraph 34(g) and 35(b) of Figure 2–1 of the

Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES.** We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and 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 temporary § 165.T11–526 to read as follows:

§ 165.T11–526 Safety Zone: America's Cup World Series Finish-line, San Francisco, CA.

(a) *Location.* This temporary safety zone is established for the navigable waters of the San Francisco Bay in San Francisco, California as depicted in National Oceanic and Atmospheric Administration (NOAA) Chart 18649 to support the 2012 America's Cup World Series sailing races. The safety zone applies to the navigable waters 350 yards around San Francisco West Yacht Harbor Light 2 located at position 37°48′32″ N, 122°26′24″ W (NAD 83).

(b) *Enforcement period.* The temporary safety zone described in paragraph (a) of this section will be in effect from noon on October 4, 2012, until 4 p.m. on October 7, 2012. The zone will be enforced during the end of each race. Races will last approximately one hour each and will occur during the following periods: between noon and 6:30 p.m. on October 4; between 11:45 a.m. and 6 p.m. on October 5; between 11:45 a.m. and 6:30 p.m. on October 6, 2012; and between 11:15 a.m. and 4 p.m. on October 7, 2012. The Captain of the Port San Francisco (COTP) will notify the maritime community of periods during which this zone will be enforced via Broadcast Notice to Mariners in accordance with 33 CFR 165.7.

(c) *Definitions.* As used in this section, "designated representative" means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer on a Coast Guard vessel or a Federal, State, or local officer designated by or assisting the COTP in the enforcement of the safety zone.

(d) *Regulations.* (1) Under the general regulations in 33 CFR part 165, subpart C, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the COTP or a designated representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or a designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or a designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or a designated representative. Persons and vessels may request permission to enter the safety zone on VHF–23A or through the 24-hour Command Center at telephone (415) 399–3547.

Dated: September 25, 2012.

Cynthia L. Stowe,

Captain, U.S. Coast Guard, Captain of the Port San Francisco.

[FR Doc. 2012–24611 Filed 10–4–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2012–0874]

RIN 1625–AA00

Safety Zone; Sea World San Diego Fireworks, Mission Bay; San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

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

DATES: This rule is effective with actual notice from 8:50 p.m. on September 19, 2012 to October 5, 2012. This rule is effective in the **Federal Register** from October 5, 2012 until 10 p.m. on December 31, 2012. This rule will be enforced from 8:50 p.m. to 10 p.m. on the following evenings: September 19, November 16, and December 31, 2012.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2012–0874. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Regulatory History and Information

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

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

B. Basis and Purpose

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

Sea World is sponsoring the Sea World Fireworks, which will include a fireworks presentation from a barge in Mission Bay. The fireworks display is scheduled to occur between 8:50 p.m. and 10 p.m. on the following evenings; September 19, November 16, and December 31, 2012. This safety zone is necessary to provide for the safety of the crew, spectators, participants, and other vessels and users of the waterway.

C. Discussion of the Final Rule

The Coast Guard is establishing a safety zone that will be enforced from 8:50 p.m. to 10 p.m. on the following evenings; September 19, November 16, and December 31, 2012. The safety zone will cover a 600 foot radius surrounding the fireworks barge in approximate position 32°46′03″ N, 117°13′11″ W. The safety zone is necessary to provide for the safety of the crew, spectators, participants, and other vessels and users of the waterway. When this safety zone is being enforced, persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. This determination is based on the size and location of the safety zone. Commercial vessels will not be hindered by the safety zone. Recreational vessels will only be prohibited from transiting through the designated safety zone during the specified times.

2. Impact on Small Entities

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

(1) This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of Mission Bay from 8:50 p.m. to 10 p.m. on September 19, November 16, and December 31, 2012.

(2) This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: The safety zone will only be in effect for one hour and 10 minutes late in the evening when vessel traffic is low.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and

does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T11–523 to read as follows:

§ 165.T11–523 Safety Zone; Sea World San Diego Fireworks, Mission Bay; San Diego, CA.

(a) *Location.* The safety zone will include the area within 600 feet of the fireworks barge in approximate position 32°46′03″ N, 117°13′11″ W.

(b) *Enforcement period.* This safety zone will be enforced from 8:50 p.m. to 10 p.m. on the following evenings; September 19, November 16, and December 31, 2012.

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

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

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

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

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

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

Dated: September 17, 2012.

J.A. Janszen,

Commander, U.S. Coast Guard, Acting Captain of the Port San Diego.

[FR Doc. 2012–24614 Filed 10–4–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–0849]

RIN 1625–AA00

Safety Zone; Battle of Queenston Heights Bicentennial, Niagara River, Lewiston, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Niagara River, Lewiston, NY. This safety zone is intended to restrict vessels from a portion of the Lower Niagara River during the Battle of Queenston Heights Bicentennial historical reenactment and fireworks display. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with a historical reenactment and fireworks display.

DATES: This rule will be effective from 6:30 p.m. until 8:00 p.m. on October 12, 2012.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2012–0849. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the "SEARCH" box, and click "Search." You may visit the Docket Management Facility, Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email LT Christopher Mercurio, Chief of Waterways Management, U.S. Coast Guard Sector Buffalo; telephone 716–843–9343, email *SectorBuffaloMarineSafety@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Regulatory History and Information

The Coast Guard is issuing this 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 and contrary to the public interest. The final details for this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be both impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect spectators and vessels from the hazards associated with a historical reenactment and maritime fireworks display, which are discussed further below.

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

B. Basis and Purpose

Between 7:00 p.m. and 7:30 p.m. on October 12, 2012, a historical reenactment will take place in which period cannons will be activated from the shoreline with pyrotechnic rockets being used to simulate cannonballs being launched several hundred feet over the water. This historical reenactment will be held on the Lower Niagara River near the Silo Restaurant, Lewiston, NY. The Captain of the Port Buffalo has determined that fireworks launched proximate to a gathering of watercraft pose a significant risk to public safety and property. Such hazards include premature and accidental detonations, dangerous projectiles, and falling or burning debris.

C. Discussion of Rule

With the aforementioned hazards in mind, the Captain of the Port Buffalo has determined that this temporary safety zone is necessary to ensure the safety of spectators and vessels during the Battle of Queenston Heights Bicentennial historical reenactment and fireworks display. This zone will be effective and enforced from 6:30 p.m. until 8:00 p.m. on October 12, 2012. This zone will encompass all waters of the Niagara River, Lewiston, NY starting from position 43°10′28.2″ N and 79°02′58.6″ W then South to 43°10′22.9″ N and 79°02′58.9″ W then West to 43°10′23.2″ N and 79°03′05.0″ W then North to 43°10′28.5″ N and 79°03′05.0″ W then returning to the point of origin to form a square (NAD 83).

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of 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 that Order. Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for relatively short time. Also, the safety zone is designed to minimize its impact on navigable waters. Furthermore, the safety zone has been designed to allow vessels to transit around it. Thus, restrictions on vessel movement 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.

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 Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the Niagara River on the evening of October 12, 2012.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This safety zone will be enforced for only 90 minutes late in the day. Traffic will 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 activation 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. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** 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. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–0849 to read as follows:

§ 165.T09–0849 Safety Zone; Battle of Queenston Heights Bicentennial, Niagara River, Lewiston, NY.

(a) *Location.* The safety zone will encompass all waters of the Niagara River, Lewiston, NY starting from position 43°10′28.2″ N and 79°02′58.6″ W then South to 43°10′22.9″ N and 79°02′58.9″ W then West to 43°10′23.2″ N and 79°03′05.0″ W then North to 43°10′28.5″ N and 79°03′05.0″ W then returning to the point of origin to form a square (NAD 83).

(b) *Effective and enforcement period.* This regulation is effective and will be enforced on October 12, 2012 from 6:30 p.m. until 8:00 p.m.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The "on-scene representative" of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: September 19, 2012.

S.M. Wischmann,

Captain, U.S. Coast Guard, Captain of the Port, Sector Buffalo.

[FR Doc. 2012–24582 Filed 10–4–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–0860]

Safety Zone; Rio Vista Bass Derby Fireworks, Sacramento River, Rio Vista, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone for the Rio Vista Bass Derby Fireworks in the Captain of the Port, San Francisco area of responsibility during the dates and times noted below. This action is necessary to protect life and property of the maritime public from the hazards associated with the fireworks display. During the enforcement period, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone, unless authorized by the Patrol Commander (PATCOM).

DATES: The regulations in 33 CFR 165.1191, Table 1, Item number 27, will be enforced from 12:01 p.m. to 9 p.m. on October 13, 2012.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Ensign William Hawn, U.S. Coast Guard Sector San Francisco; telephone (415) 399–7442 or email at *D11-PF-MarineEvents@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a 100 foot safety zone around the fireworks barge at the Dutra Company Yard in Rio Vista, CA during the loading and transit of the fireworks barge and until the commencement of the fireworks display. Loading of the pyrotechnics onto the barge is scheduled to take place from 12:01 p.m. until 3 p.m. on October 13, 2012 at the Dutra Company Yard in Rio Vista, CA. From 7 p.m. until 8 p.m. the loaded barge will transit from the Dutra Company Yard to the launch site off of Rio Vista, CA in position 38°09′18″ N, 121°41′15″ W (NAD 83). Upon commencement of the 15 minute fireworks display, scheduled to take place from 8:30 p.m. until 8:45 p.m. on October 13, 2012, the safety zone will increase in size and encompass the navigable waters around and under the fireworks barge within a radius of 1,000 feet in position in position 38°09′18″ N, 121°41′15″ W (NAD 83) for the Rio Vista Bass Derby Fireworks in 33 CFR 165.1191. This safety zone will be in effect from 12:01 p.m. to 9 p.m. on October 13, 2012.

Under the provisions of 33 CFR 165.1191, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone during all applicable effective dates and times, unless authorized to do so by the PATCOM. Additionally, each person who receives notice of a lawful order or direction issued by an official patrol vessel shall obey the order or direction. The PATCOM is empowered to forbid entry into and control the regulated area. The PATCOM shall be designated by the Commander, Coast Guard Sector San Francisco. The PATCOM may, upon request, allow the transit of commercial vessels through regulated areas when it is safe to do so.

This notice is issued under authority of 33 CFR 165.1191 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with extensive advance notification of the safety zone and its enforcement period via the Local Notice to Mariners.

If the Captain of the Port determines that the regulated area need not be enforced for the full duration stated in this notice, a Broadcast Notice to Mariners may be used to grant general permission to enter the regulated area.

Dated: September 24, 2012.

Cynthia L. Stowe,

Captain, U.S. Coast Guard, Captain of the Port San Francisco.

[FR Doc. 2012–24617 Filed 10–4–12; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2011–0084; FRL–9737–8]

Air Quality Implementation Plans; Alabama; Attainment Plan for the Alabama Portion of the Chattanooga 1997 Annual $PM_{2.5}$ Nonattainment Area

AGENCY: Environmental Protection Agency (EPA or Agency).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve the State Implementation Plan (SIP) revision submitted by the State of Alabama, through the Alabama Department of Environmental Management (ADEM) to EPA on October 7, 2009, for the purpose of providing for attainment of the 1997 fine particulate matter ($PM_{2.5}$) national ambient air quality standards (NAAQS) in the Alabama portion of the tri-state Chattanooga $PM_{2.5}$ nonattainment area (hereafter referred to as the "Chattanooga Area" or "Area"). The Chattanooga Area is comprised of Catoosa and Walker Counties in Georgia; Hamilton County in Tennessee; and a portion of Jackson County in Alabama. The Alabama SIP revision (hereafter referred to as the "attainment plan") pertains only to the Alabama portion of the Chattanooga Area (hereafter referred to as "Jackson County"). EPA is now taking final action to approve Alabama's October 7, 2009, SIP revision regarding reasonably available control technology (RACT) and reasonably available control measures (RACM); reasonable further progress (RFP); contingency measures; and, for transportation conformity purposes, an insignificance determination for $PM_{2.5}$ and nitrogen oxides (NO_X) for the mobile source contribution to ambient $PM_{2.5}$ levels for the Alabama portion of the Chattanooga Area. This action is being taken in accordance with the Clean Air Act (CAA or Act) and the "Clean Air Fine Particle Implementation Rule," hereafter referred to as the "$PM_{2.5}$ Implementation Rule," issued by EPA on April 25, 2007.

DATES: *Effective Date:* This rule will be effective on November 5, 2012.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2011–0084. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Joel Huey or Richard Wong of the Regulatory Development Section, in the Air Planning Branch, Air, Pesticides and

Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Joel Huey may be reached by phone at (404) 562–9104, or via electronic mail at *huey.joel@epa.gov*. Richard Wong may be reached by phone at (404) 562–8726, or via electronic mail at *wong.richard@epa.gov*.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. What action is EPA taking?

EPA is taking final action to approve Alabama's SIP revision for the Alabama portion of the Chattanooga Area,[1] as submitted through the ADEM to EPA on October 7, 2009, for the purpose of demonstrating attainment of the 1997 Annual $PM_{2.5}$ NAAQS. Alabama's $PM_{2.5}$ attainment plan for Jackson County includes an analysis of RACM/RACT, an RFP plan, contingency measures, and an insignificance determination for mobile direct $PM_{2.5}$ and NO_X emissions for transportation conformity purposes. EPA previously approved the base year emissions inventory for the Alabama portion of the Chattanooga Area on February 8, 2012 (77 FR 6467).

EPA has determined that Alabama's $PM_{2.5}$ attainment plan for the 1997 Annual $PM_{2.5}$ NAAQS for Jackson County meets the applicable requirements of the CAA and the $PM_{2.5}$ Implementation Rule. Thus, EPA is taking final action to approve Alabama's attainment plan for Jackson County, including the insignificance determination for direct $PM_{2.5}$ and NO_X for Alabama's mobile source contribution to ambient $PM_{2.5}$ levels in the Chattanooga Area. More detail on EPA's rationale for this approval can be found in EPA's July 12, 2012, proposed rulemaking for this action (*see* 77 FR 41132).

II. What is the background for EPA's action?

On April 25, 2007, EPA published the $PM_{2.5}$ Implementation Rule for the 1997 $PM_{2.5}$ NAAQS (72 FR 20586). This rule describes the CAA framework and requirements for developing SIPs to achieve attainment in areas designated nonattainment for the 1997 $PM_{2.5}$ NAAQS. Such attainment plans must include a demonstration that a nonattainment area will meet the applicable NAAQS within the timeframe provided in the statute. For the 1997 $PM_{2.5}$ NAAQS, an attainment demonstration must show that a nonattainment area will attain the standards as expeditiously as practicable, but within five years of designation (i.e., by an attainment date of no later than April 5, 2010, based on air quality data for 2007 through 2009). As mentioned above, ADEM provided Alabama's SIP revision with the attainment plan (the subject of this rulemaking) for the Alabama portion of the Chattanooga Area on October 7, 2009.

On May 31, 2011, EPA determined that the Chattanooga Area had attaining data for the 1997 Annual $PM_{2.5}$ NAAQS. *See* 76 FR 31239. That determination was based on quality-assured, quality controlled and certified ambient air monitoring data that shows the Area met the 1997 Annual $PM_{2.5}$ NAAQS. Furthermore, on September 8, 2011, in accordance with CAA 179(c), EPA determined that the Chattanooga Area attained the 1997 Annual $PM_{2.5}$ NAAQS by its applicable attainment date of April 5, 2010. *See* 76 FR 55774. This information is mentioned here in support of EPA's determination that Alabama's attainment plan was sufficient for the Chattanooga Area to achieve attainment by no later than the required attainment date of April 5, 2010.

As discussed in the May 31, 2011, rulemaking, EPA's determination of attainment[2] suspended the obligation for the State to meet planning SIP requirements for the Chattanooga Area for so long as the Area continues to attain the 1997 Annual $PM_{2.5}$ NAAQS. *See* 40 CFR 51.1004(c). The State must still submit required emissions inventories consistent with applicable timelines.[3] The suspended SIP submission obligations include the attainment demonstration (including in this case the mobile source insignificance determination submitted to satisfy transportation conformity requirements), the RACM/RACT analysis and requirements, the RFP requirements as applicable, and contingency measures. Despite the suspension of the aforementioned attainment plan requirements for the Chattanooga Area for the 1997 Annual $PM_{2.5}$ NAAQS, Alabama has requested that EPA take action on its planning SIP for this Area in part because the SIP submittal includes the insignificance determination for conformity purposes.

EPA's July 12, 2012, proposal action provides additional details regarding the rationale for today's final action. A brief discussion is provided here as well. As shown in the table below, ambient $PM_{2.5}$ levels in the Chattanooga Area have declined steadily since Alabama submitted its $PM_{2.5}$ attainment plan in 2009.

ANNUAL AVERAGE DESIGN VALUE CONCENTRATIONS IN THE CHATTANOOGA AREA

Site name	County	Site No.	Design values (average of three consecutive annual average concentrations) ($\mu g/m^3$)			
			2008	2009	2010	2011
Siskin Drive	Hamilton, TN	47–065–4002	14.3	12.7	11.6	11.1
Tombras Avenue	Hamilton, TN	47–065–0031	14.0	12.6	11.6	11.2
Soddy-Daisy High School	Hamilton, TN	47–065–1011	13.0	11.7	11.4	11.0
Rossville	Walker, GA	13–295–0002	13.5	12.3	10.7	10.1

[1] On May 31, 2011, EPA determined that the Chattanooga Area had attaining data for the 1997 Annual $PM_{2.5}$ NAAQS. *See* 76 FR 31239. As such, the State of Georgia withdrew its attainment plan submittal for the Georgia portion of the Chattanooga Area on June 29, 2011. The State of Tennessee has not withdrawn its attainment plan submittal for the Tennessee portion of the Chattanooga Area, however, EPA is not acting on that submittal at this time.

[2] The determination of attainment is not a redesignation of the Area from nonattainment to attainment and is not an indication that the Area will continue to maintain the standard for which the determination is made. It is merely a determination that the Area attained the standard for a particular three year period and also by the applicable deadline. Please see EPA's May 31, 2011, rulemaking for more detail on the effects of a determination of attainment.

[3] EPA has already approved the base year emissions inventory for the Alabama portion of the Chattanooga Area on February 8, 2012 (77 FR 6469).

EPA understands that the State chose not to withdraw the attainment plan SIP revision for its portion of the Chattanooga Area because it includes a mobile insignificance determination for direct $PM_{2.5}$ and NO_X emissions from mobile sources. EPA is now taking final action to approve the submittal.

On July 12, 2012, EPA proposed to approve Alabama's $PM_{2.5}$ attainment plan, which includes an attainment demonstration; RACT and RACM; RFP; contingency measures; and, for transportation conformity purposes, an insignificance determination for direct $PM_{2.5}$ and NO_X for the mobile source contribution to ambient $PM_{2.5}$ levels for the State's portion of the Chattanooga Area. As mentioned above, more detail on EPA's rationale for this approval can be found in EPA's July 12, 2012, proposed rulemaking for this action. *See* 77 FR 41132.

The recent D.C. Circuit decision on the Cross-State Air Pollution Rule (Transport Rule), *EME Homer Generation LP* v. *EPA*, No. 11–1302 (D.C. Cir., August 21, 2012)[4] does not disturb EPA's determination that it is appropriate to move forward with this final action. As EPA explained in the proposed rule, the air quality analysis conducted for the Transport Rule demonstrates that the Chattanooga Area would be able to attain the 1997 Annual $PM_{2.5}$ NAAQS even in the absence of either the Clean Air Interstate Rule (CAIR) or the Transport Rule. Nothing in the D.C. Circuit's August 2012 decision disturbs or calls into question that conclusion or the validity of the air quality analysis on which it is based. More importantly, and as EPA also explained in the proposal, *see* 77 FR 41136, the Transport Rule is not relevant to this action. The Transport Rule only addressed emissions in 2012 and beyond. As such, it is not relevant to the question addressed in today's action—whether the attainment plan submitted by Alabama is sufficient for bringing the Area into attainment by the April 2010 attainment date, a date before the Transport Rule was even promulgated.

For this same reason, the status of CAIR after the April 2010 attainment date is also not relevant to this action. While the monitoring data that shows the Area attained the 1997 Annual $PM_{2.5}$ NAAQS by the April 2010 attainment deadline was impacted by CAIR, CAIR was in place and enforceable through the 2010 attainment date that is relevant to action on this attainment plan. CAIR was an enforceable control measure during the relevant period applicable to affected sources in the Area, as well as sources throughout the eastern U.S. As such, the status of CAIR after that date is irrelevant and does not impact our conclusion that the attainment plan should be approved. Moreover, in its August 2012 decision, the Court also ordered EPA to continue implementing CAIR. *See Homer*, slip op. at 60. In sum, neither the current status of CAIR nor the current status of the Transport Rule affects any of the criteria for proposed approval of this SIP revision.

The comment period for EPA's July 12, 2012, proposed rulemaking closed on August 13, 2012. EPA did not receive any comments, adverse or otherwise, on the proposed rulemaking to approve Alabama's submission for the 1997 $PM_{2.5}$ NAAQS, which includes an attainment demonstration; RACT and RACM; RFP; contingency measures; and, for transportation conformity purposes, an insignificance determination for direct $PM_{2.5}$ and NO_X for the mobile source contribution to ambient $PM_{2.5}$ levels for the State's portion of the Chattanooga Area.

III. Final Action

EPA is taking final action to approve a revision to Alabama's SIP submitted to EPA by ADEM on October 7, 2009, for the purpose of demonstrating how the Alabama portion of the Chattanooga Area would achieve attainment of the 1997 Annual $PM_{2.5}$ NAAQS by no later than April 5, 2010. Alabama's October 7, 2009, SIP revision includes an attainment demonstration; RACT and RACM analyses; an RFP plan; base-year emissions inventories; contingency measures; and, for transportation conformity purposes, an insignificance determination for direct $PM_{2.5}$ and NO_X for the mobile source contribution to ambient $PM_{2.5}$ levels for the State's portion of the Chattanooga Area. After review and consideration of the relevant information and data, EPA has determined that the Alabama October 7, 2009, SIP revision is consistent with the CAA and EPA's $PM_{2.5}$ Implementation Rule, and as such EPA is approving this SIP revision.

IV. Statutory and Executive Order Reviews

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

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

In addition, this final 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,

[4] The court's judgment is not final at this time as the mandate has not yet issued.

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 December 4, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Dated: September 25, 2012.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart B—Alabama

■ 2. In § 52.50, table "EPA Approved Alabama Non-Regulatory Provisions" in paragraph (e) is amended by adding a new entry for "Attainment Plan for the Alabama Portion of the Chattanooga 1997 Annual $PM_{2.5}$ Nonattainment Area" to read as follows:

§ 52.50 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED ALABAMA NON-REGULATORY PROVISIONS

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
*	*	*	*	*
Attainment Plan for the Alabama Portion of the Chattanooga 1997 Annual $PM_{2.5}$ Nonattainment Area.	A portion of Jackson County, Alabama.	10/07/2009	10/05/2012 [Insert citation of publication].	

[FR Doc. 2012–24525 Filed 10–4–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2011–0453, FRL–9736–5]

Approval and Promulgation of Implementation Plans; Vermont: Prevention of Significant Deterioration; Greenhouse Gas Permitting Authority and Tailoring Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving revisions to the Vermont State Implementation Plan (SIP), submitted by the Vermont Department of Environmental Conservation (VT DEC) Air Pollution Control Division to EPA on February 14, 2011. The SIP revision modifies Vermont's Prevention of Significant Deterioration (PSD) program to establish appropriate emission thresholds for determining which new stationary sources and modification projects become subject to Vermont's PSD permitting requirements for their greenhouse gas (GHG) emissions. EPA proposed approval of these regulatory revisions on August 16, 2012, and received no comments. This action affects major stationary sources in Vermont that have GHG emissions above the thresholds established in the PSD regulations.

DATES: *Effective Date:* This rule is effective on November 5, 2012.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2011–0453. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Permits, Toxics, and Indoor Programs Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section for further information. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: For information regarding the Vermont SIP, contact Donald Dahl, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Permits, Toxics, and Indoor Programs Unit, 5 Post Office Square—Suite 100, (mail code OEP05–2), Boston, MA 02109–3912. Mr. Dahl's telephone number is (617) 918–1657; email address: *dahl.donald@epa.gov*.

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

Table of Contents

I. What is the background for this action?

EPA has recently undertaken a series of actions pertaining to the regulation of GHGs that, although for the most part distinct from one another, establish the overall framework for today's final action on the Vermont SIP. Four of these actions include, as they are commonly called, the "Endangerment Finding" and "Cause or Contribute Finding," which EPA issued in a single final action,[1] the "Johnson Memo Reconsideration,"[2] the "Light-Duty Vehicle Rule,"[3] and the "Tailoring Rule."[4] Taken together and in conjunction with the Clean Air Act (CAA), these actions established regulatory requirements for GHGs emitted from new motor vehicles and new motor vehicle engines; determined that such regulations, when they took effect on January 2, 2011, subjected GHGs emitted from stationary sources to PSD requirements; and limited the applicability of PSD requirements to GHG sources on a phased-in basis.

Recognizing that some states had approved SIP PSD programs that do apply PSD to GHGs, but that do so for sources that emit as little as 100 or 250 tons per year of GHG, and do not limit PSD applicability to GHGs to the higher thresholds in the Tailoring Rule. EPA published a final rule on December 30, 2010, narrowing its previous approval of PSD programs as applicable to GHG-emitting sources in SIPs for 24 states, including Vermont (PSD Narrowing Rule).[5] In the PSD Narrowing Rule, EPA withdrew its approval of Vermont's SIP, among other SIPs, to the extent that SIP applies PSD permitting requirements to GHG emissions from sources emitting at levels below those set in the Tailoring Rule. As a result of the Narrowing Rule, Vermont's approved SIP provided the state with authority to regulate GHGs, but only at and above the Tailoring Rule thresholds, and required new and modified sources to receive a PSD permit based on GHG emissions only if they emitted at or above the Tailoring Rule thresholds.

On February 14, 2011, in response to the Tailoring Rule and earlier GHG-related EPA rules, VT DEC submitted a revision to EPA for approval into the Vermont SIP to establish appropriate emission thresholds for determining which new or modified stationary sources become subject to PSD permitting requirements for GHG emissions. Subsequently, on August 16, 2012 (77 FR 49404), EPA published a proposed approval of this SIP submittal. Specifically, Vermont's February 14, 2011 SIP revision establishes appropriate emissions thresholds for determining PSD applicability to new and modified GHG-emitting sources in accordance with EPA's Tailoring Rule. Detailed background information and EPA's rationale for the proposed approval are provided in EPA's August 16, 2012, **Federal Register** action.

II. What comments did EPA receive?

The public comment period on the proposed approval of Vermont's SIP revision ended on September 17, 2012. EPA did not receive any comments on the proposed approval of this SIP revision.

III. What is the effect of this action?

Final approval of Vermont's February 14, 2011 SIP revision incorporates changes to the state's rules to establish the GHG emission thresholds for PSD applicability set forth in EPA's Tailoring Rule, confirming that smaller GHG sources emitting less than these thresholds will not be subject to PSD permitting requirements under the approved Vermont SIP. EPA has determined the SIP revision approved by today's action is consistent with EPA's regulations, including the Tailoring Rule. Furthermore, EPA has determined this SIP revision is consistent with section 110 of the CAA; therefore, EPA is approving this revision into Vermont's SIP.

As a result of today's action approving Vermont's incorporation of the appropriate GHG permitting thresholds into its SIP, paragraph 40 CFR 52.2372(b), as included in EPA's PSD Narrowing Rule, is no longer necessary.[6] Thus, today's action also amends 40 CFR 52.2372 to remove this unnecessary regulatory language.

IV. What action is EPA taking?

Pursuant to section 110 of the CAA, EPA is approving Vermont's February 14, 2011 SIP revision, relating to PSD requirements for GHG-emitting sources. Our approval includes amendments to Subchapter I as follows: new definitions of "Greenhouse Gases" and "Subject to Regulation," amendments to the definition of "Major Stationary Source," and the addition of a provision regarding significance levels of greenhouse gases to the definition of "Significant."[7] For federal purposes, EPA is adopting the interpretations of Vermont's use of the terms "Greenhouse Gases," "Subject to Regulation," and its incorporation by reference of various federal regulations, as set forth in our proposed approval. See 77 FR 49407. EPA is also approving the classification of certain sources of greenhouse gas emissions as air contaminant sources in Subchapter IV, section 5–401(16).

These revisions establish appropriate emissions thresholds for determining PSD applicability with respect to new or modified GHG-emitting stationary sources in accordance with EPA's June 3, 2010, Tailoring Rule. With this approval, EPA also amends 40 CFR 52.2372 by removing subsection (b).

EPA has made the determination this SIP revision is approvable because it is in accordance with the CAA and EPA regulations regarding PSD permitting for GHGs. The detailed rationale for this action is set forth in the proposed rulemaking referenced above, and in this final rule.

V. Statutory and Executive Order Reviews

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions

[1] "Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act." 74 FR 66496 (December 15, 2009).

[2] "Interpretation of Regulations that Determine Pollutants Covered by Clean Air Act Permitting Programs." 75 FR 17004 (April 2, 2010).

[3] "Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards; Final Rule." 75 FR 25324 (May 7, 2010).

[4] "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule; Final Rule." 75 FR 31514 (June 3, 2010).

[5] "Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans." 75 FR 82536 (December 30, 2010).

[6] 40 CFR 52.2372(b) codifies EPA's limiting its approval of Vermont's PSD SIP to not cover the applicability of PSD to GHG-emitting sources below the Tailoring Rule thresholds.

[7] As we noted in the proposed rulemaking, the definition of "Significant" in Vermont's SIP revision lacks significance thresholds for several non-GHG pollutants, but we are approving the revised definition as "SIP strengthening." See 77 FR 49407.

of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

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

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

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

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 4, 2012. 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, Reporting and recordkeeping requirements.

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

Dated: September 24, 2012.

H. Curtis Spalding,

Regional Administrator, EPA New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart UU—Vermont

■ 2. § 52.2370(c) the Table "EPA-Approved Vermont Regulations" is amended by:

■ a. Revising entries to state citations for Section 5–101 and 5–401.

■ b. Adding footnote 1.

The revisions and addition read as follows.

§ 52.2370 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED VERMONT REGULATIONS

State citation	Title/subject	State effective date	EPA approval date [1]	Explanations
*	*	*	*	*
Section 5–101	Definitions	2/8/2011	10/5/2012, [Insert **Federal Register** page number where the document begins].	Added definitions of "Greenhouse Gases" and "Subject to Regulation," amended definition of "Major Stationary Source," added significance level for greenhouse gases to the definition of "Significant."
*	*	*	*	*
Section 5–401	Classification of air contaminant sources.	2/8/2011	10/5/2012, [Insert **Federal Register** page number where the document begins].	Added certain sources of greenhouse gas emissions to the list of air contaminant sources
*	*	*	*	*

[1] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

* * * * *

■ 3. Section 52.2372 is amended by removing and reserving paragraph (b).

[FR Doc. 2012–24341 Filed 10–4–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2009–0882; FRL–9738–1]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Streamlining Amendments to the Plan Approval Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is granting limited approval to a State Implementation Plan (SIP) revision submitted by the Pennsylvania Department of Environmental Protection (PADEP) on April 14, 2009. The revision pertains to PADEP's plan approval requirements for the construction, modification, and operation of sources, and is primarily intended to streamline the process for minor permitting actions. This action is being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on November 5, 2012.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2009–0882. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: David Talley, (215) 814–2117, or by email at *talley.david@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Throughout this document, whenever "we," "us," or "our" is used, we mean EPA. On April 12, 2012 (77 FR 21908), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania. The NPR proposed approval of amendments to the plan approval requirements for the construction, modification, reactivation, and operation of sources under 25 Pa. Code chapter 127. The formal SIP revision was submitted by PADEP on April 14, 2009.

II. Summary of SIP Revision

The primary purpose of the amendments is to streamline the permitting process by eliminating some of the administrative burden and costs associated with processing minor permitting actions, while preserving the right of the public to review and comment on those proposed actions. The proposed amendments generally affect five regulations: Section 127.12b, pertaining to "shakedown" periods for new or modified sources; section 127.12d, pertaining to completeness determinations; sections 127.44 and 127.45, pertaining to public notice requirements; and section 127.48, pertaining to conferences and hearings. The specific requirements of the SIP revision and the rationale for EPA's proposed action are explained in the NPR and will not be restated here.

III. EPA's Response to Comments Received on the Proposed Action

EPA received a single set of comments on its April 12, 2012 proposed action to approve revisions to the Pennsylvania SIP. These comments, provided by the Clean Air Council, (hereinafter referred to as "the Commenter"), raised concerns with regard to EPA's April 12, 2012 proposed action. A full set of these comments is provided in the docket for today's final action. A summary of the comments and EPA's responses are provided below.

Generally, the Commenter raises three areas of concern. First, the Commenter asserts that the proposal to increase the duration of "shakedown period" extensions from 120 days to 180 days is inappropriate. Second, the Commenter asserts that the addition of the completeness determination requirements adds to PADEP's permitting burden, and together with the other contested revisions, "* * * increases the burden on the public contrary to the stated purpose of the Clean Air Act * * *" (*See*, Comments at 3). Third, the Commenter raises several specific concerns regarding the proposed revisions to the public participation requirements under 25 Pa. Code section 127. EPA's response to these comments is below.

Comment 1: The Commenter notes that PADEP's previously approved regulations allow a 180-day shakedown period, with provisions for obtaining a 120-day extension. The Commenter further asserts that PADEP has not provided any justification as to why the existing 120-day extension period should be expanded to 180 days, and that, in the absence of such justification, the proposed longer extension period is "* * * both unnecessary and improper," (*See*, Comments at 2).

Response 1: 25 Pa. Code section 127.12b outlines the terms and conditions which must be included in each plan approval. Under section 127.12b(c), each plan approval "* * * must authorize temporary operation to facilitate shakedown of sources and air cleaning devices, to permit operations pending issuance of a permit under Subchapter F (relating to operating permit requirements) or Subchapter G (relating to Title V operating permits) or to permit the evaluation of the air contamination aspects of the source." The currently approved regulations already allow for a 120-day extension of this temporary operating authorization. EPA disagrees with the Commenter's assertion that allowing a longer, 180-day extension is improper, and we leave to PADEP's discretion the issue of whether it is necessary. CAA section 110(k)(3) requires the Administrator to approve a SIP submittal "* * * if it meets all of the applicable requirements of this chapter." We cannot identify, nor did the Commenter point to any CAA requirement or provision of its implementing regulations which is contrary to PADEP's proposed expansion of the temporary operating authorization period. Furthermore, we note that 25 Pa. Code section 127.12b requires each plan approval to contain all applicable CAA requirements, including monitoring, recordkeeping and reporting, and prohibits PADEP from approving or extending the temporary authorization period in any instance which would circumvent the requirements of 25 Pa. Code section 127. Therefore, we are approving the revisions to 25 Pa. Code 127.12b as submitted.

Comment 2: Although acknowledging that the proposed addition of the completeness determination requirements of 25 Pa. Code section

127.12d complies with the CAA, the Commenter asserts that, "It defies common understanding of fairness to push burdens away from the booming private industry while at the same time increasing the burden on government, especially when PADEP is facing budget cuts" (*See,* Comments at 3).

Response 2: EPA disagrees that the addition of completeness determinations imposes an undue burden on permitting authorities. On the contrary, clearly defining what is required of both the applicant and the permitting authority (PADEP in this case), as well as establishing deadlines on both parties eliminates potentially open ended, back-and-forth correspondence between the applicant and PADEP that draws the permitting process out unnecessarily. Such a situation is much more burdensome on a permitting authority than a requirement for completeness determinations. In any event, the point is moot. The completeness determination provision proposed by PADEP is not only compliant with the CAA, it is required by 40 CFR 51.166(q)(1). We are therefore approving the revisions as submitted.

Comment 3: The third area of concern raised by the Commenter relates to the proposed revisions to the public participation requirements for plan approvals. The specific provisions with which the Commenter takes issue are discussed in detail as follows:

First, the Commenter asserts that the proposed revision to 25 Pa. Code 127.44, specifically the elimination of the receipt of application notice for minor permitting actions, "* * * would significantly decrease the public's awareness of the permitting activity in their own communities and consequently diminish the public's ability to provide meaningful input into the permitting process," (*See,* Comments at 3). Second, the Commenter asserts that the elimination of the newspaper publication requirement for minor permitting actions in favor of publication in the *Pennsylvania Bulletin* under the proposed revision to section 127.44 is contrary to 40 CFR sections 51.166(q), 51.161(b)(3), and 70.7(h), arguing that because the *Pennsylvania Bulletin* is a " highly esoteric publication with very limited and specialized readership" (*See,* Comments at 4), it fails to meet the CAA's "prominent advertisement" requirements. Third, the Commenter asserts that eliminating the requirement for notice to be sent to affected states is contrary to 40 CFR 70.7(h)(3), 70.8, and 51.166(q)(2)(iv). Fourth, the Commenter asserts that the proposed revisions to section 127.45, related to the required contents of the public notices, are contrary to 40 CFR 51.161(a) because the revised provisions do not include the requirement to disclose the proposed emissions limitations, PADEP's analysis of the applicant's proposal, and the project's impact on ambient air quality (*See,* Comments at 7). Finally, the Commenter asserts that section 127.48 is contrary to 40 CFR 51.166(q)(iii) and (v) because it gives PADEP too much discretion in determining when to hold conferences and public hearings.

Response 3: Generally, the proposed revisions to the public notice requirements pertain to Pennsylvania's minor NSR program. In contrast to the considerable requirements prescribed for major NSR, the CAA, at section 110(a)(2)(C), addresses minor source programs only by requiring that each SIP include a program that provides for "* * * regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that [NAAQS] are achieved * * *" The implementing regulations for minor NSR are at 40 CFR 51.160–51.164. In sum, states have considerable discretion with regard to developing their minor NSR programs.

With regard to the elimination of the receipt of application notice, the Commenter is incorrect in the assertion that the previously approved version of the Pennsylvania SIP requires both a notice of receipt and a notice of intent to issue. Only one notice, a notice of intent to take action (issue/deny) was required by the previously approved version of 25 Pa. Code 127.44(a). PADEP was, as a matter of policy, issuing two notices. It was never a requirement, and it is within PADEP's discretion to stop that practice. The revisions to section 127.44(a) are consistent with the requirements of 40 CFR 51.161(a).

The Commenter's assertion that the elimination of the newspaper publication requirement for minor permitting actions in favor of publication in the *Pennsylvania Bulletin* under the proposed revision to section 127.44 is contrary to 40 CFR 51.166(q), 51.161(b)(3), and 70.7(h) is also incorrect. First, the types of actions that are subject to the revised requirements of 25 Pa. Code 127.44(a) are not subject to the major NSR requirements of 40 CFR 51.166(q). With regard to section 70.7(h), in certain circumstances, Pennsylvania operates a "merged" permit program in which a plan approval is both an NSR and a title V action, and the requirements of the plan approval are brought into the facility's title V permit as an administrative amendment with no additional public notice. In such instances, all of the public notice requirements of part 70, including the newspaper requirement of section 70.7(h) are applicable. It is unclear how frequently this situation occurs in the types of minor facilities that are subject to the proposed revisions to 25 Pa. Code 127.44. Nevertheless, this is a title V implementation issue, and does not affect the approvability of the proposed revisions to Pennsylvania's NSR SIP. Furthermore, we disagree that publication in the *Pa. Bulletin* fails to meet the "prominent advertisement" requirements of 40 CFR 51.161(b)(3). EPA has repeatedly recognized that the prominent advertisement requirements of section 51.161(b)(3) are media neutral, and that state programs may meet the requirement with alternative methods, provided that it is reasonable to conclude that the public would have "ready and routine access to any alternative publishing venues," (*See,* April 17, 2012, Janet McCabe Memo to Regional Administrators entitled, "Minor New Source Review Public Notice Requirements under 40 CFR 51.161(b)(3)", available at *http://www.epa.gov/region07/air/nsr/nsrmemos/pubnot.pdf).* We believe publication in the *Pa. Bulletin* meets this standard.

With regard to the Commenter's assertion that eliminating the requirement for notice to be sent to affected states is contrary to 40 CFR 70.7(h)(3), 70.8, and 51.166(q)(2)(iv), as we stated above, the types of actions that are subject to the proposed revised requirements of 25 Pa. Code 127.44(a) are not subject to the major NSR requirements of 40 CFR 51.166. The applicable regulations of 40 CFR 51.160–51.164 contain no such notice requirement. As discussed above, the applicability of the title V requirements of part 70 is dependent on whether the specific plan approval is being processed as a "merged" permit, and is an implementation issue that does not impact the approvability of the proposed SIP revision.

EPA agrees with the Commenter's assertion that the proposed revisions to 25 Pa. Code 127.45 fall short of what is required by 40 CFR 51.161. However, as we discussed in our proposal, we believe that to some extent, the intent of section 51.161(a) was met in 25 Pa. Code sections 127.45(a)(3) and (4), which contain the requirements for what must be included in the public notice. These sections require a description of the proposed construction or modification, the

control technology being installed, the conditions in the proposed permit (with reference to applicable federal requirements), and the type and quantity of air contaminants being emitted. Nevertheless, the agency analysis required by 40 CFR 51.161(a) is not explicitly required in the proposed SIP revision, nor do the regulations of sections 127.44 and 127.45 require that the agency's analysis be made available for public inspection in at least one location, in accordance with 40 CFR 51.161(b)(1). Section 127.44(f)(1) requires only that the application be made available. This is the basis for granting limited approval. In order to receive full approval, PADEP must adopt regulations that explicitly require that the agency's analysis be included in the materials made available to the public, and that the materials be made available for public inspection in at least one location.

Additionally, the Commenter asserts that the proposed revisions have lead to inadequate information being provided in the notices of receipt and intent to issue, thus limiting the public's ability to participate meaningfully in the permitting process (See, Comments at 7). The Commenter further asserts that not only should the application materials and the agency's analysis be provided to the public, but that the proposed permit itself should also be provided. There is no requirement in section 51.161 that the proposed permit be made public. Nevertheless, EPA agrees that the generic, boilerplate language cited by the Commenter falls short of the intent of section 51.161 (*See,* Comments at 7–8). However, this is an implementation issue which is outside of the scope of the SIP revision process. Once PADEP submits regulations which correct the deficiencies leading to our limited approval, the regulations at 25 Pa. Code section 127.45 will be fully approvable on their face.

Finally, EPA disagrees with the Commenter's assertion that 25 Pa. Code 127.48 is contrary to 40 CFR 51.166(q)(iii) and (v) because it gives PADEP too much discretion in determining when to hold conferences and public hearings. The requirements of section 127.48 apply not to routine public hearings held in the course of the public notice process, but to hearings held as a result of an official protest having been filed in accordance with section 127.46. There are no public hearing requirements in 40 CFR 51.161 for minor NSR actions. Additionally, we note that Pennsylvania has met the plan requirements of 40 CFR 51.166 by incorporating by reference in their entirety the federal regulations at 40 CFR 52.21. Therefore, the applicable requirements are not under section 51.166(q), but rather are under section 52.21(q). Section 52.21(q) requires that the applicable procedures of 40 CFR section 124 be followed in the processing of applications. According to section 124.12(a), "The Director shall hold a public hearing whenever he or she finds, on the basis of requests, a significant degree of public interest in a draft permit(s)." It is clear that there is some discretion afforded to the permitting authority in determining when a public hearing should be held.

For the reasons discussed above, EPA believes that with the exception of the noted deficiencies, PADEP's proposed SIP revision meets all applicable CAA requirements, and that a limited approval is warranted.

IV. Final Action

EPA is granting limited approval of the submitted amendments to 25 Pa. Code chapter 127 as a revision to the Pennsylvania SIP.

V. Statutory and Executive Order Reviews

A. General Requirements

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.

B. Submission to Congress and the Comptroller General

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).

C. Petitions for Judicial Review

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 December 4, 2012. 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 regarding streamlining amendments to Pennsylvania's plan

approval process may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 21, 2012.

W.C. Early,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (c)(1) is amended by:

■ a. Revising the entry for Title 25, Section 127.12b.

■ b. Adding an entry for Title 25, Section 127.12d after the existing entry for Section 127.12c.

■ c. Revising the entries for Sections 127.44, 127.45, and 127.48.

The amendments read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(1) * * *

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Title 25—Environmental Protection Article III—Air Resources				
* * * * * * *				
Chapter 127—Construction, Modification, Reactivation and Operation of Sources				
* * * * * * *				
Subchapter B—Plan Approval Requirements				
* * * * * * *				
Section 127.12b	Plan Approval Terms and Conditions	5/24/08	10/5/12 [*Insert page number where the document begins*].	Revised; limited approval.
* * * * * * *				
Section 127.12d	Completeness Determination	5/24/08	10/5/12 [*Insert page number where the document begins*].	Added; limited approval.
* * * * * * *				
Section 127.44	Public Notice	5/24/08	10/5/12 [*Insert page number where the document begins*].	Revised; limited approval.
Section 127.45	Contents of Notice	5/24/08	10/5/12 [*Insert page number where the document begins*].	Revised; limited approval.
* * * * * * *				
Section 127.48	Conferences and Hearings	5/24/08	10/5/12 [*Insert page number where the document begins*].	Revised; limited approval.
* * * * * * *				

* * * * *

[FR Doc. 2012–24524 Filed 10–4–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2008–0930; FRL–9737–9]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Attainment Demonstration for the 1997 8-Hour Ozone National Ambient Air Quality Standard for the Philadelphia-Wilmington-Atlantic City Moderate Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving the attainment demonstration portion of the attainment plan submitted by the State of Delaware as a State Implementation Plan (SIP) revision. The SIP revision demonstrates attainment of the 1997 8-hour ozone national ambient air quality standard (NAAQS) for the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE moderate nonattainment area (Philadelphia Area) by the applicable attainment date of June 2011. EPA is approving the SIP revision in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on November 5, 2012.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2008–0930. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814–2182, or by email at *quinto.rose@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On August 7, 2012 (77 FR 46990), EPA published a notice of proposed rulemaking (NPR) for the State of Delaware. The NPR proposed approval of the attainment demonstration portion of the attainment plan for the 1997 8-hour ozone NAAQS for the Philadelphia Area. The formal SIP revision was submitted by Delaware on June 13, 2007.

II. Summary of SIP Revision

The SIP revision consists of the attainment demonstration portion of the attainment plan submitted by Delaware as a SIP revision on June 13, 2007 to demonstrate attainment of the 1997 8-hour ozone NAAQS for the Philadelphia Area by the applicable attainment date of June 2011. EPA previously approved other portions of the Delaware attainment plan submitted on June 13, 2007. *See* 75 FR 17863 (April 8, 2010). EPA has determined that the weight of evidence analysis that Delaware used to support the attainment demonstration provides sufficient evidence that the Philadelphia Area would attain the 1997 8-hour ozone NAAQS by the applicable attainment date of June 2011. Specific requirements of the attainment demonstration and the rationale for EPA's proposed action are explained in the NPR and the technical support document (TSD) and will not be restated here. No public comments were received on the NPR.

Separately, EPA conducted a process to find adequate the motor vehicle emission budgets (MVEBs) for New Castle, Kent and Sussex Counties which are associated with the Delaware attainment demonstration for the Philadelphia Area. A notice was posted on EPA's Web site for a 30-day public comment period on the adequacy determination for the 2009 MVEBs associated with the attainment demonstration for all three counties in Delaware. No comments were received during the public comment period. Therefore, EPA finds adequate the MVEBs for transportation conformity purposes for all three counties in Delaware.

III. Final Action

EPA is approving the 1997 8-hour ozone NAAQS attainment demonstration portion of the attainment plan submitted by Delaware on June 13, 2007. EPA has determined that Delaware's SIP revision demonstrates attainment of the 1997 8-hour ozone NAAQS for the Philadelphia Area by the applicable attainment date of June 2011. EPA also has determined that the SIP revision meets the applicable requirements of the CAA. EPA is also approving and finding adequate the 2009 MVEBs associated with the attainment demonstration for all three counties in Delaware.

IV. Statutory and Executive Order Reviews

A. General Requirements

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.

B. Submission to Congress and the Comptroller General

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).

C. Petitions for Judicial Review

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 December 4, 2012. 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 pertaining to the Delaware attainment demonstration for the 1997 8-hour ozone NAAQS for the Philadelphia Area may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: September 21, 2012.

W.C. Early,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart I—Delaware

■ 2. In § 52.420, the table in paragraph (e) is amended by adding the entry for the "Attainment Demonstration for the 1997 8-Hour Ozone National Ambient Air Quality Standard and its Associated Motor Vehicle Emission Budgets" at the end of the table to read as follows:

§ 52.420 Identification of plan.

* * * * *

(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
*	*	*	*	*
Attainment Demonstration for the 1997 8-Hour Ozone National Ambient Air Quality Standard and its Associated Motor Vehicle Emissions Budgets.	Delaware-Philadelphia-Wilmington-Atlantic City Moderate Nonattainment Area.	06/13/07	10/05/12 [Insert page number where the document begins].	

[FR Doc. 2012–24526 Filed 10–4–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2012–0556; FRL–9736–8]

Revisions to the Nevada State Implementation Plan, Washoe County Air Quality District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing approval of revisions to the Washoe County Air District Board of Health (WCDBOH) portion of the Nevada State Implementation Plan (SIP). This action was proposed in the **Federal Register** on July 30, 2012 and concerns regulations regarding compliance with permit conditions, recordkeeping, source sampling and testing, and statements of compliance with 40 CFR Part 70 permits. We are approving local rules that regulate these emission sources under the Clean Air Act (CAA or the Act).

DATES: These rules will be effective on November 5, 2012.

ADDRESSES: EPA has established docket number EPA–R09–OAR–2012–0556 for this action. Generally, documents in the docket for this action are available electronically at *http://www.regulations.gov* or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at *http://www.regulations.gov*, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps, multi-volume reports), and some may not be available in either location (e.g., confidential business information (CBI)). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Cynthia Allen, EPA Region IX, (415) 947–4120, *allen.cynthia@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to EPA.

Table of Contents

I. Proposed Action

On July 30, 2012 (77 FR 44560), EPA proposed to approve a draft version of the following rules because we determined that they complied with the relevant CAA requirements.

Local agency	Rule No.	Rule title
WCDBOH	030.218	Demonstration of Compliance.
WCDBOH	030.230	Record Keeping.
WCDBOH	030.235	Requirements for Source Sampling.
WCDBOH	030.970A	Part 70 Permit Monitoring and Compliance.

Our proposed action contains more information on the rules and our evaluation. Our proposed approval responded to a July 5, 2012 request from the State to parallel process a version of these rules proposed for local adoption on June 28, 2012. On August 30, 2012, NDEP submitted to EPA official copies of Washoe County Rules 030.218, 030.230, 030.235, and 030.970A that were adopted locally on June 28, 2012. On September 10, 2012, EPA determined that the submittal for these Washoe County Rules met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review. We have reviewed the versions of these rules and they are unchanged from the version we proposed to approve on July 30, 2012.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

III. EPA Action

No comments were submitted that change our assessment of the rules as described in our proposed action. Therefore, as authorized under section 110(k)(3) of the Act, EPA is fully approving these rules into the Nevada SIP.

IV. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 4, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: September 14, 2012.

Jared Blumenfeld,

Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart DD—Nevada

■ 2. In § 52.1470, in paragraph (c), Table 7 is amended by adding four new entries for sections 030.218, 030.230, 030.235, and 030.970A in alphanumeric order to read as follows:

§ 52.1470 Identification of plan.

* * * * *

(c) * * *

TABLE 7—EPA-APPROVED WASHOE COUNTY REGULATIONS

District citation	Title/subject	District effective date	EPA approval date	Additional explanation
*	*	*	*	*
030.218	"Demonstration of Compliance"	06/28/12	10/05/12 [Insert **Federal Register** page number where the document begins].	Submitted on 08/30/12.
030.230	"Record Keeping"	06/28/12	10/05/12 [Insert **Federal Register** page number where the document begins.	Submitted on 08/30/12.
030.235	"Requirements for Source Sampling and Testing".	06/28/12	10/05/12 [Insert **Federal Register** page number where the document begins].	
*	*	*	*	*
030.970A	"Part 70 Permit Monitoring and Compliance".	06/28/12	10/05/12 [Insert **Federal Register** page number where the document begins].	
*	*	*	*	*

[FR Doc. 2012–24527 Filed 10–4–12; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2010–0524; FRL–9363–4]

RIN 2070–ZA16

Trinexapac-ethyl; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of trinexapac-ethyl in or on multiple commodities and modifies existing tolerance levels and commodity definitions for trinexapac-ethyl, which are identified and discussed later in this document. EPA proposed these tolerances and noted amendments under the Federal Food, Drug, and Cosmetic Act (FFDCA) in order to correct inadvertent errors in the final rule tolerance table for trinexapac-ethyl that published in the **Federal Register** on March 2, 2012.

DATES: This regulation is effective October 5, 2012. Objections and requests for hearings must be received on or before December 4, 2012, 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–2010–0524, 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: Bethany Benbow, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 347–8072; email address: *benbow.bethany@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://ecfr.gpoaccess.gov/cgi/t/text/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–2010–0524 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 December 4, 2012. 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 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–2010–0524, by one of the following methods:

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

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

II. Background

In the **Federal Register** of July 13, 2012 (77 FR 41346) (FRL–9353–9), EPA issued a proposed rule pursuant to FFDCA section 408(e), 21 U.S.C. 346a (d)(3). The Agency-initiated rule proposed that 40 CFR 180.662 be amended by establishing tolerances for trinexapac-ethyl in or on barley, bran at 2.5 ppm; sugarcane, molasses at 2.5 ppm; and wheat, bran at 6.0 ppm. The rule also proposed amending the existing trinexapac-ethyl tolerances for wheat, forage from 1.5 to 1.0 ppm and wheat, middlings from 6.5 to 10.5 ppm, as well as changing the existing commodity definition for "hog, kidney" to "hog, meat by-products" in order to correct inadvertent errors in the final rule tolerance table for trinexapac-ethyl that was published in the **Federal Register** on March 2, 2012 (77 FR 12740) (FRL–9337–9). The proposed rule included a summary of the exposure assessment prepared by the Agency and explained the basis for EPA's conclusion that there is a reasonable certainty that no harm will result to the general population or to infants and children, as a result of aggregate exposure to trinexapac-ethyl residues. A comment was received in response to the proposed rule. EPA's response to that comment is discussed below in Unit III.

III. Response to Comment

An anonymous citizen objected to the presence of any pesticide residues on food. The Agency understands the commenter's concerns and recognizes that some individuals believe that pesticides should be banned completely. However, the existing legal framework provided by section 408 of the Federal Food, Drug and Cosmetic Act (FFDCA) contemplates that tolerances greater than zero may be set when persons seeking such tolerances or exemptions have demonstrated that the pesticide meets the safety standard imposed by that statute. This citizen's comment appears to be directed at the underlying statute and not EPA's implementation of it; the citizen has made no contention that EPA has acted in violation of the statutory framework.

IV. Conclusion

Given that EPA received no meaningful comment on its proposal and based on the information, analysis, and conclusions in the July 13, 2012 proposal (77 FR 41346) (FRL–9353–9), tolerances are established, as proposed, for residues of trinexapac-ethyl, in or on barley, bran at 2.5 ppm; sugarcane, molasses at 2.5 ppm; and wheat, bran at 6.0 ppm. In addition, as proposed, the tolerance level for wheat, forage is revised from 1.5 to 1.0 ppm, the tolerance level for wheat, middlings is revised from 6.5 to 10.5 ppm and the commodity definition, "hog, kidney" is revised to "hog, meat by-products."

V. Statutory and Executive Order Reviews

This final rule establishes tolerances under FFDCA section 408(d) on EPA's own initiative. 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).

Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that these proposed tolerances will not have significant negative economic impact on a substantial number of small entities. Establishing a pesticide tolerance or an exemption from the requirement of a pesticide tolerance is, in effect, the removal of a regulatory restriction on pesticide residues in food, and thus such an action will not have any negative economic impact on any entities, including small entities.

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).

VI. 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: September 25, 2012.

Daniel J. Rosenblatt,

Acting 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 § 180.662, the table in paragraph (a) is amended by:
■ i. Alphabetically adding the following commodities: "Barley, bran", "Sugarcane, molasses", and "Wheat, bran".
■ ii. Removing the entry for "Hog, kidney" and adding in alphabetical order an entry for "Hog, meat by-products".
■ iii. Revising the entries for "Wheat, forage" and "Wheat, middlings".

The amendments read as follows:

§ 180.662 Trinexapac-ethyl; tolerances for residues.

(a) * * *

Commodity	Parts per million
Barley, bran	2.5
* * * * *	
Hog, meat by-products	0.03
* * * * *	
Sugarcane, molasses	2.5
Wheat, bran	6.0
Wheat, forage	1.0
* * * * *	
Wheat, middlings	10.5
* * * * *	

* * * * *

[FR Doc. 2012–24646 Filed 10–4–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R04–RCRA–2012–0124; FRL–9735–2]

Tennessee: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Tennessee has applied to EPA for final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for final authorization, and is authorizing the State's changes through this immediate final action. EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we receive written comments that oppose this authorization during the comment period, the decision to authorize Tennessee's changes to its hazardous waste program will take effect. If we receive comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

DATES: This final authorization will become effective on December 4, 2012 unless EPA receives adverse written comment by November 5, 2012. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–RCRA–2012–0124 by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: johnson.otis@epa.gov*
- *Fax:* (404) 562–9964 (prior to faxing, please notify the EPA contact listed below).
- *Mail:* Send written comments to Otis Johnson, Permits and State Programs Section, RCRA Programs and Materials Management Branch, RCRA Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
- *Hand Delivery or Courier.* Deliver your comments to Otis Johnson, Permits and State Programs Section, RCRA Programs and Materials Management Branch, RCRA Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.

Instructions: We must receive your comments by November 5, 2012. Please refer to Docket Number EPA–R04–RCRA–2012–0124. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The 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.

You may view and copy Tennessee's application and associated publicly available materials from 8 a.m. to 4 p.m. at the following locations: EPA, Region 4, RCRA Division, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960, telephone number: (404) 562–8483; and from 8 a.m. to 4:30 p.m. at the Tennessee Department of Environment and Conservation, Division of Solid Waste Management, 5th Floor, L & C Tower, 401 Church Street, Nashville, Tennessee 37243–1535; telephone number: (615) 562–0780. Interested persons wanting to examine these documents should make an appointment with the office at least a week in advance.

FOR FURTHER INFORMATION CONTACT: Otis Johnson, Permits and State Programs Section, RCRA Programs and Materials Management Branch, RCRA Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960; telephone number: (404) 562–8481; fax number: (404) 562–9964; email address: *johnson.otis@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. Why are revisions to State programs necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must

change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What decisions have we made in this rule?

We conclude that Tennessee's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Tennessee final authorization to operate its hazardous waste program with the changes described in the authorization application. Tennessee has responsibility for permitting treatment, storage, and disposal facilities within its borders and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Tennessee, including issuing permits, until the State is granted authorization to do so.

C. What is the effect of this authorization decision?

The effect of this decision is that a facility in Tennessee subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Tennessee has enforcement responsibilities under its State hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which includes, among others, authority to:

- Do inspections, and require monitoring, tests, analyses or reports;
- Enforce RCRA requirements and suspend or revoke permits; and
- Take enforcement actions regardless of whether the State has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which Tennessee is being authorized by today's action are already effective, and are not changed by today's action.

D. Why wasn't there a proposed rule before this rule?

EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register**, we are publishing a separate document that proposes to authorize the State program changes.

E. What happens if EPA receives comments that oppose this action?

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw that part of this rule but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What has Tennessee previously been authorized for?

Tennessee initially received final authorization on January 22, 1985, effective February 5, 1985 (50 FR 2820), to implement the RCRA hazardous waste management program. We granted authorization for changes to Tennessee's program on the following dates: June 12, 1987, effective August 11, 1987 (52 FR 22443); June 1, 1992, effective July 31, 1992 (57 FR 23063); May 8, 1995, effective July 7, 1995 (60 FR 22524); August 24, 1995, effective October 23, 1995 (60 FR 43979); May 23, 1996, effective July 22, 1996 (61 FR 25796); January 30, 1998, effective March 31, 1998 (63 FR 4587); September 15, 1999, effective November 15, 1999 (64 FR 49998); October 26, 2000, effective December 26, 2000 (65 FR 64161); December 26, 2001, effective February 25, 2002 (66 FR 66342); April 11, 2003, effective June 10, 2003 (68 FR 17748); March 14, 2005, effective May 13, 2005 (70 FR 12416); and May 11, 2006, effective July 10, 2006 (71 FR 27405).

G. What changes are we authorizing with this action?

On December 15, 2008, and June 1, 2011, Tennessee submitted final complete program revision applications, seeking authorization of its changes in accordance with 40 CFR 271.21. EPA now makes an immediate final decision, subject to receipt of written comments that oppose this action, that Tennessee's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Therefore, we grant Tennessee final authorization for the following program changes:

Description of Federal requirement	Federal Register date and page	Analogous State authority [1]
215—Cathode Ray Tube (CRT) Exclusion	71 FR 42928 07/28/06	1200–01–11–.01(2)(a); 1200–01–11–.02(1)(d)1(xxiv)(I)–(IV); 1200–01–11–.02(6)(a)–(d).
216—Exclusion of Oil-Bearing Secondary Materials Processed in a Gasification System to Produce Synthesis Gas.	73 FR 57 01/02/08	1200–01–11–.01(2)(a); 1200–01–11–.02(1)(d)1(xii)(I).
217—NESHAP: Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II) Amendments.	73 FR 18970 04/08/08	1200–01–11–.06(15)(a); 1200–01–11–.06(15)(a)2(i) and (iii);1200–01–11–.09(8)(a)2(iii)(III).
218—F019 Exemption for Wastewater Treatment Sludges from Auto Manufacturing Zinc Phosphating Processes.	73 FR 31756 06/04/08	1200–01–11–.02(4)(b)1; 1200–01–11–.02(4)(b)2(iv)(I) and (II).

[1] The Tennessee provisions are from the Tennessee Hazardous Waste Management Regulations effective September 12, 2009.

H. Where are the revised State rules different from the Federal rules?

We consider Tennessee Hazardous Waste Management Regulation 1200–01–11–.02(4)(b)2(iv)(II) to be more stringent than the Federal counterpart at 40 CFR 261.31(b)(4)(ii) because the State requires generators to maintain records on site for no less than five (5) years to prove that exempted sludges meet the conditions of the F019 listing. The Federal requirement at 40 CFR 261.31(b)(4)(ii) requires generators to maintain such records for no less than three (3) years. This five-year document retention requirement is part of the Tennessee authorized program and is federally enforceable.

EPA cannot delegate or authorize the Federal requirements at 40 CFR 261.39(a)(5), 261.40, and 261.41. Although Tennessee has adopted these requirements at 1200–01–11–.02(6)(b)1(v), 1200–01–11–.02(6)(c) and 1200–01–11–.02(6)(d), the State correctly notes that EPA will continue to implement these requirements.

I. Who handles permits after the authorization takes effect?

Tennessee will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization until they expire or are terminated. EPA will not issue any more permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Tennessee is not authorized.

J. What is codification and is EPA codifying Tennessee's hazardous waste program as authorized in this rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. EPA does this by referencing the authorized State rules in 40 CFR part 272. EPA reserves the amendment of 40 CFR part 272, subpart RR for this authorization of Tennessee's program changes until a later date.

K. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it 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). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order.

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 document 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 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). This action will be effective December 4, 2012, unless objections to this authorization are received.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006, and 7004(b), of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: September 12, 2012.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2012–24098 Filed 10–4–12; 8:45 am]

BILLING CODE 6560–50–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Parts 2510, 2522, 2540, 2551, and 2552

RIN 3045–AA56

Criminal History Check Requirements for AmeriCorps State/National, Senior Companions, Foster Grandparents, the Retired and Senior Volunteer Program, and Other National Service Programs; Final Rule

AGENCY: Corporation for National and Community Service.

ACTION: Final rule.

SUMMARY: To implement the Serve America Act, the Corporation for National and Community Service (CNCS) proposed amendments to its National Service Criminal History Check regulation on July 6, 2011. This final rule adopts the proposed amendments, clarifies several requirements, and makes minor technical corrections. The amendments require CNCS grantees to conduct and document a National Service Criminal History Check that includes a fingerprint-based FBI criminal history check on individuals in covered positions who begin work, or who start service, on or after April 21, 2011, and who have recurring access to children 17 years of age or younger, to persons age 60 and older, or to individuals with disabilities. Individuals in covered positions include Senior Companions (SCP), Foster Grandparents (FGP), AmeriCorps State and National participants, and other participants, volunteers, or staff funded under a CNCS grant.

DATES: This final rule is effective January 1, 2013.

FOR FURTHER INFORMATION CONTACT: Amy Borgstrom, Corporation for National and Community Service, 1201 New York Avenue NW., Washington, DC 25025. She may be reached at (202) 606–6930 (*aborgstrom@cns.gov*). The TDD/TTY number is (202) 606–3472.

You may request this notice in an alternative format for the visually impaired.

SUPPLEMENTARY INFORMATION:

I. Background

a. National Service Criminal History Check Requirements Prior to the Serve America Act

In 2007, the Corporation issued rules requiring grantees to conduct criminal history checks on the members, volunteers, and grant-funded staff who had recurring access to children, persons age 60 or older, or individuals with disabilities. Recurring access meant having contact with individuals from one or more of the above groups on more than one occasion. These 2007 rules only applied to the AmeriCorps State and National, FGP and SCP programs. The rules did not apply to the Retired and Senior Volunteer Program (RSVP), Learn and Serve America (LSA), or other CNCS-funded programs. Affected grantees could apply to CNCS for approval of an alternative search procedure (ASP) if state law precluded them from complying with the national service criminal history check requirements or if they could obtain substantially the same information using a different process. The regulation also permitted grantees to conduct a fingerprint-based FBI criminal history check in lieu of the required state criminal history registry check(s).

b. The Serve America Act's National Service Criminal History Check Requirements

In 2009, Congress amended the National and Community Service Act of 1990 (42 U.S.C. 12501 *et seq.*) (NCSA) with the Serve America Act (Pub. L. 111–13) (SAA). The SAA codified CNCS's regulatory National Service Criminal History Check requirements and expanded the categories of positions covered by the criminal history check requirements. Under the SAA, on or after October 1, 2009, any entity that selects an individual to serve in a position in which the individual receives a living allowance, stipend, national service educational award, or salary through a program receiving assistance under the national service laws must conduct a criminal history check on that individual. Individuals in covered positions now include grant-funded staff serving in any CNCS-funded national service program, including RSVP, LSA, Non-profit Capacity Building, and the Social Innovation Fund (SIF) grant programs.

Notably, the SAA expanded the categories of covered positions subject to the National Service Criminal History Check requirements without regard to the individual's access to vulnerable populations. It also prohibited individuals convicted of murder from serving in covered positions. The SAA also required that after April 21, 2011, individuals in covered positions with recurring access to vulnerable populations must have a fingerprint-based FBI criminal history check conducted as part of the National Service Criminal History Check. As directed by the SAA, CNCS issued new regulations in 2009, expanding coverage to any national service participant, volunteer or grant-funded employee who received one of the above-described payments for his or her service or employment. (74 FR 46495, September 10, 2009). Pursuant to these regulations, each individual in a covered position who does not have recurring access to vulnerable populations who began work or started service with a grantee on or after October 1, 2009, is required to undergo a National Service Criminal History Check that includes: (1) A nationwide check of the National Sex Offender Public Web site (NSOPW); and (2) a search of *either* (a) the state criminal registry(ies) in the state in which the grantee is operating and the state in which the individual resides at the time of application, *or* (b) a Federal Bureau of Investigation (FBI) fingerprint-based criminal history check.

c. Special Rule for Individuals With Recurring Access to Vulnerable Populations

The SAA specified separate National Service Criminal History Check requirements for individuals in covered positions with recurring access to vulnerable populations. Beginning April 21, 2011, entities that select individuals to serve in covered positions who are 18 or older and who will have recurring access to children age 17 or younger, individuals age 60 or older, or individuals with disabilities must conduct for each individual: (1) A nationwide check of the NSOPW; (2) a search of the state criminal registr(ies) in the state in which the individual in a covered position will be primarily serving or working and the state in which the individual resides at the time of application; *and* (3) an FBI fingerprint-based criminal history check. The SAA created limited exceptions to this special rule.

II. Discussion of the Final Rule

To implement National Service Criminal History Check provisions of the SAA, CNCS published a notice of a proposed rulemaking in the **Federal Register** on July 6, 2011. (76 FR 39361). This final rule implements the SAA with regard to individuals in covered positions with recurring access to vulnerable populations. In addition, the final rule clarifies several requirements in the existing rule and makes minor technical corrections for clarity.

a. Definitions and Applicability

1. Definition of "Program" (§ 2510.20)

The SAA amended the NCSA's definition of *program* to include newly-

authorized programs including Campuses of Service, Serve America Fellows, Encore Fellows, Silver Scholars, the Social Innovation Fund, and activities funded under programs such as the Volunteer Generation Fund. The final rule aligns the definition of *program* in the regulation with the statutory definition, corrects a typographical error, and corrects the statutory citation.

2. Definition of "You" (§ 2540.200)

Because this rule sets forth the National Service Criminal History Check provisions in one location in the Code of Federal Regulations, and because the rule applies to recipients of CNCS federal financial assistance who have individuals in covered positions, this final rule is written using program-neutral terminology. Accordingly, "you" in this final rule means a Corporation grantee or other entity subject to Corporation grant provisions. Unless the context otherwise requires, this includes, but is not limited to, recipients of federal financial assistance under grant programs defined in § 2510.20 of this final rule, as well as SCP, FGP, and RSVP projects.

3. Individuals in Covered Positions (§ 2540.201)

The final rule clarifies that the National Service Criminal History Check eligibility criteria apply to individuals in covered positions and aligns the definition of the term "covered position" with the language of the SAA. The reference in the proposed rule to the definition of *program* in § 2510.20 was removed from the final rule for clarity. The SAA extended application of the National Service Criminal History Check requirements to entities receiving CNCS grants under the national service laws, which include the NCSA and the Domestic Volunteer Service Act of 1973 (DVSA), as amended. While the National Service Criminal History Check requirements apply to programs defined in § 2510.20, the applicability is not limited to those programs. The requirements also apply to individuals in covered positions in the SCP, FGP, and RSVP programs. It should be clear that a National Service Criminal History Check is not required for individuals whose connection to the grantee is tangential, or who are considered beneficiaries. For example, a National Service Criminal History Check would not be required for an individual contracted to provide occasional training to participants and volunteers, but is not otherwise integral to the operation of the program, nor would it be required for a child who receives a cash prize from a program for completing a service-learning project.

b. Eligibility Criteria—AmeriCorps State and National Positions (§ 2522.200)

The SAA amended the NCSA to prohibit an individual convicted of murder, as defined under 18 U.S.C. 1111, from serving in a covered position. In 2009, CNCS amended the National Service Criminal History Check regulations to reflect this statutory change concerning eligibility. As the regulatory sections updated in 2009 indicated, the change applied to AmeriCorps State and National. However, CNCS inadvertently failed to update the provision in the regulation that specifically addresses eligibility to serve in an AmeriCorps State and National position. This final rule corrects this oversight to reflect in this section that eligibility for service in an AmeriCorps State and National position includes satisfaction of the National Service Criminal History Check eligibility criteria.

The 2009 amendments to the National Service Criminal History Check regulations created some confusion regarding the eligibility of individuals convicted of murder, as defined under 18 U.S.C. 1111, from serving in a covered position. Congress declared that, as of October 1, 2009, individuals convicted of murder may not work or serve in covered positions. This Congressional mandate gave no discretion to CNCS to waive or modify this eligibility requirement.

Consequently, grantees with individuals convicted of murder who are currently serving or working in a covered position, including staff, must remove those individuals from the covered positions. For those individuals for whom a state registry or FBI criminal history check was not required prior to this final rule (e.g., those individuals who began work or service before October 1, 2009, without a subsequent break in service), grantees will be permitted to rely on the individuals' self-certification that they have never been convicted of murder as defined by 18 U.S.C. 1111, in lieu of conducting a criminal history check. The definition in 18 U.S.C. 1111 is as follows: "Murder is the unlawful killing of a human being with malice aforethought. Every murder perpetrated by poison, lying in wait, or any other kind of willful, deliberate, malicious, and premeditated killing; or committed in the perpetration of, or attempt to perpetrate, any arson, escape, murder, kidnapping, treason, espionage, sabotage, aggravated sexual abuse or sexual abuse, child abuse, burglary, or robbery; or perpetrated as part of a pattern or practice of assault or torture against a child or children; or perpetrated from a premeditated design unlawfully and maliciously to effect the death of any human being other than him who is killed, is murder in the first degree. Any other murder is murder in the second degree."

Individuals who have been convicted of murder have been ineligible to serve as of October 1, 2009, and therefore, all costs associated with these individuals are potentially disallowable since that date.

c. National Service Criminal History Checks Generally (§ 2540.203)

The National Service Criminal History Check for individuals in covered positions must include (1) a nationwide check of the Department of Justice's National Sex Offender Public Web site (NSOPW) and (2) *either* (a) a name- or fingerprint-based search of the official state criminal history registry in the state in which the grantee is operating and of the official state criminal history registry in the state in which the individual resides at the time of application, *or* (b) submission of fingerprints through a state central record repository to the Federal Bureau of Investigation for a national criminal history background check.

Because of the importance of proper screening and because the NSOPW is a widely-available and free public resource, the NSOPW search must be nationwide (i.e., all states and territories) in order to meet the National Service Criminal History Check requirement. If any of the databases comprising the NSOPW are down, offline, or otherwise unavailable, the NSOPW check is incomplete until all databases are checked. The rule has been revised to clarify this requirement. Additionally, because of the availability of this free public resource, grantees must conduct an NSOPW check for any individual currently serving or working in a covered position defined under this rule, regardless of when the individual was hired or started service, and regardless of their access to vulnerable populations. Finally, as a prudential action, all CNCS grantees, when conducting a search of the name-based NSOPW, should include not only the applicant's current legal name, but also any previous names or aliases by which the applicant may have been known.

Since 2007, CNCS has required grantees operating in more than one state that conduct state criminal registry checks to conduct the checks in the state where the individual in a covered position will be primarily serving or working and in the state in which the

individual resides at the time of application. The final rule codifies this requirement.

Comments received by CNCS indicated that the formatting of the proposed rule made it difficult to determine which components of the National Service Criminal History Check are required. The rule has been reformatted to make the requirements clear. Additionally, the heading of this section was edited to be consistent with the other section headings.

CNCS also received comments requesting resolution of the ambiguity in the proposed rule regarding the time at which an individual is considered of age for the special rule for individuals with recurring access to vulnerable populations to apply. The final rule establishes that the rule applies to an individual who will be 18 years old or older at any time while serving in a covered position. The final rule also replaces the broad term "vulnerable population" with the specific groups statutorily defined as "vulnerable populations," where necessary, to resolve any ambiguity.

This section of the final rule is the first section in which the words "enrolled" and "hired" are replaced with "starts service" and "begins work," respectively. These words are updated throughout the final rule because comments suggested that the use of "enrolled" and "hired" created some confusion. For some grantees, "enrolled" has a specific operational meaning that does not reflect the intended timing in the context of the rule. Therefore, the word, "enrolled," has been replaced with the words, "starts service," to more clearly convey the intended timing requirements of the final rule. For the purposes of this rule, an individual "starts service" when the individual's time begins to be credited toward their service commitment; an individual "begins work" when the individual engages in activities chargeable to the grant."

The proposed rule reflected CNCS's intent to eliminate unnecessary replication of the National Service Criminal History Check provisions in the Code of Federal Regulations, and anchors the substantive provisions in one location. Because grantees subject to the National Service Criminal History Check provisions use different terminology, and comments indicated that the terminology may have caused confusion, the final rule includes a definitional section to eliminate confusion concerning the applicability of the provisions. Sections have been renumbered and citations throughout the rule have been updated accordingly to accommodate its inclusion.

d. Special Rule for Individuals With Recurring Access to Vulnerable Populations (§ 2540.203)

This final rule implements the National Service Criminal History Check requirements for individuals in covered positions with recurring access to vulnerable populations who began work or who started service on or after April 21, 2011. The NCSA, as amended by the SAA, defines vulnerable populations as children age 17 or younger, individuals age 60 or older, or individuals with disabilities. The final rule now more clearly defines "vulnerable population." Unless CNCS approves an alternative search procedure or an exception under § 2540.207, for individuals in covered positions who will be 18 or older and who also have recurring access to vulnerable populations, grantees must conduct (1) a nationwide check of the NSOPW (*http://www.nsopw.gov*), (2) a name- or fingerprint-based search of the official state criminal registry in the state in which the grantee is operating and of the official state criminal registry in the state in which the individual resides at the time of application, *and* (3) submission of fingerprints through a state central record repository to the Federal Bureau of Investigation for a national criminal history background check.

CNCS continues to define "recurring access" as "the ability on more than one occasion to approach, observe, or communicate with an individual through physical proximity or other means, including but not limited to, electronic or telephonic communication." (45 CFR 2510.20).

In anticipation of the final rule, current grantees have inquired as to whether CNCS would develop a centralized mechanism for conducting FBI fingerprint checks for national service participants. CNCS is committed to identifying ways to decrease the burden on grantees; however, no such centralized mechanism is available at this time.

e. Timing of National Service Criminal History Check and Consecutive Terms (§ 2540.204)

Grantees must conduct and document the results of the nationwide NSOPW check *before* an individual begins work or starts service. The NSOPW is a free public resource available at *http://www.nsopw.gov/*.

Under § 2540.204(b) of this final rule, it is not necessary to perform an additional National Service Criminal History Check on an individual who serves consecutive terms of service with the same grantee when the break in service does not exceed 120 days, as long as the original check is a compliant check for the covered position in which the individual will be serving or working following the break in service. For example, if an individual serves an original term in a covered position with no recurring access to vulnerable populations, but will be serving the consecutive term in a covered position with recurring access to vulnerable populations, the grantee must ensure that any additional National Service Criminal History Check components required for the position are conducted (e.g. the fingerprint-based FBI check). This section allows, but does not require, a grantee to forego additional National Service Criminal History checks for individuals serving consecutive terms, based upon a presumption that the additional check would, in large part, replicate the original check and that the grantee's proximity to the individual would increase the likelihood that the grantee would have knowledge of the individual's activity.

Grantees must conduct a National Service Criminal History Check under this final rule on individuals in covered positions who, on or after April 21, 2011, begin work or start service (1) following a break in service exceeding 120 days or (2) with a new grantee.

(f) No Unaccompanied Access to Vulnerable Populations Pending National Service Criminal History Check Results (§ 2540.205)

This final rule codifies CNCS's understanding that it is common for vulnerable population beneficiaries to be accompanied by a parent, legal guardian, teacher, doctor, nurse, or other individual responsible for his or her care. CNCS does not believe it is necessary for an individual with pending National Service Criminal History Check results to be accompanied by an authorized grantee representative who has received the appropriate criminal history check when the vulnerable population beneficiary is accompanied by an individual responsible for his or her care.

While results from the state or FBI criminal history check components of the National Service Criminal History Check are pending, grantees may allow individuals in covered positions with recurring access to vulnerable populations to begin work or start service, as long as the individual is not permitted access to vulnerable

populations without being accompanied by (1) an authorized grantee representative who has previously been cleared for such access; (2) a family member or legal guardian of the vulnerable individual; or (3) an individual authorized by the nature of his or her profession to have recurring access to the vulnerable individual, such as an education or medical professional. Accompaniment is a higher standard than supervision in that it requires the individual with recurring access to vulnerable populations to be in the physical presence of the accompanying individual. For example, a covered individual whose criminal history check component results are pending may give nature tours to schoolchildren as part of an environmental program as long as the covered individual is within the physical presence of teachers or parents.

The final rule has been changed based on comments CNCS received about the ambiguity in the term "accompaniment." The final rule uses the phrase "physical presence" in place of "accompaniment" to convey the intended meaning and specific requirement.

g. Costs (§ 2540.205)

The rule requires grantees to obtain and document a baseline criminal history check for individuals in covered positions. CNCS considers the cost of this required National Service Criminal History Check a reasonable and necessary program grant expense, such costs being presumptively eligible for reimbursement. In any event, a grantee should include the costs associated with its screening process in the grant budget it submits to CNCS for approval.

This rule codifies CNCS's guidance that a grantee may not charge an individual for the cost of a National Service Criminal History Check unless CNCS has given written permission to do so. In addition, because a National Service Criminal History Check is inherently attributable to operating a program, such costs may not be charged to a state commission administrative grant.

h. Documentation Requirements (§ 2540.206)

Grantees must retain the criminal history check results along with written documentation that they considered the results in selecting the individual. The grantee must review and determine that the information returned by the governmental body issuing criminal history registry results provides information that would allow the grantee to determine whether or not an individual was eligible to work or serve in a covered position under the final rule. For example, if a grantee receives a document from the statewide criminal history registry that indicates that the individual is "cleared" for service based upon an agreement that describes CNCS's standards for eligibility, that clearance document may be retained as the sufficient documentation of the criminal history check results, along with written documentation that the grantee considered the result in selecting the individual.

i. Alternative Search Procedures and Exceptions to the National Service Criminal History Check Requirements for Individuals in Covered Positions With Recurring Access to Vulnerable Populations (§ 2540.207)

The headings and structure of this section have been modified from those in the proposed rule in order to clarify the substantive content, and to clearly distinguish alternative search procedures from the statutory exceptions to the fingerprint-based FBI criminal history check requirement for individuals in covered positions with recurring access to vulnerable populations. A grantee may request in writing that CNCS approve an alternative search procedure for the National Service Criminal History Check components described in § 2540.203(a) or § 2540.203(b)(2)(i)–(ii), if the grantee (1) is prohibited under state law from meeting the requirements of § 2540.203(a) or § 2540.203(b)(2)(i)–(ii) or (2) demonstrates that it can obtain substantially equivalent or better information through an alternative search procedure.

Grantees may also apply to CNCS for approval of an exception from the fingerprint-based FBI criminal history check component of the National Service Criminal History Check, described in § 2540.203(b)(2)(iii), for an individual in a covered position with recurring access to vulnerable populations. CNCS may approve such an exception if the entity demonstrates to CNCS's satisfaction (1) that the cost to the grantee of complying with 45 CFR 2540.203(b)(2)(iii) is prohibitive; (2) that the entity is not authorized, or is otherwise unable, under State or Federal law, to access the national criminal history background check system of the FBI; or (3) that there is sufficient justification for CNCS to exempt the grantee from the requirement for good cause.

1. Episodic Access (§ 2540.207)

Congress granted those individuals in covered positions with recurring access to vulnerable populations an exception to the FBI fingerprint-based criminal history check requirement when their access to vulnerable populations is "episodic in nature or for a [one]-day period." For the purpose of this final rule, the Corporation defines "episodic" as access that is not a regular, scheduled, and anticipated component of an individual's service activities. If access to vulnerable populations is not a regular, scheduled, and anticipated component of an individual's service activities, the grantee is not required to conduct a fingerprint-based FBI criminal history check. However, the grantee must conduct the other components of the National Service Criminal History Check, as described in § 2540.203(b)(2)(i)–(ii) or under an approved ASP.

For example, consider an individual who is applying for an AmeriCorps position with an environmental program that involves volunteer coordination. If the grantee anticipates that the position will involve coordinating high school student volunteers on a regular basis, then the grantee must conduct a fingerprint-based FBI criminal history check on that individual. However, if the grantee has no reason to expect that the position will involve coordinating 17-year-old and younger volunteers because the grantee has never operated in a youth environment, does not have any youth engagement goals, and does not recruit high school aged volunteers, then any contact with a child volunteer would be irregular, unscheduled, unanticipated, and thus, episodic. Therefore, the grantee would not need to conduct a fingerprint-based FBI criminal history check. However, the grantee must conduct the other components of the National Service Criminal History Check, as described in § 2540.203(b)(2)(i)–(ii) or under an approved ASP.

Episodic access is not determined by a specific number. In other words, if a grantee does not anticipate that a member will have access to vulnerable populations, the need to meet the National Service Criminal History Check requirements for individuals in covered positions with access to vulnerable populations would not materialize after a specific number of incidents of access occur, but would once the access becomes regular, scheduled and anticipated. If incidental access becomes unexpectedly regular or frequent, a grantee should re-evaluate its initial determination of episodic access and take appropriate action.

CNCS expects that in the majority of cases, it will be clear whether or not access to vulnerable populations is a

regular, scheduled, and anticipated component of an individual's service activities. Nevertheless, CNCS recommends that grantees specifically address contact with vulnerable populations in each position description, service agreement, or similar document describing an individual's service activities.

2. Exemptions Approved for Good Cause

CNCS will publish on its Web site (*http://www.nationalservice.gov*) those scenarios for which CNCS has approved exemptions for "good cause" from the fingerprint-based FBI criminal history check requirement in § 2540.203(b)(2)(iii). The list of approved "good cause" exemptions may be expanded and codified in future rulemakings.

CNCS will monitor compliance with the rules and requirements associated with National Service Criminal History checks as a material condition of receiving a CNCS grant. An entity's failure to comply may adversely affect the entity's access to grant funds or ability to obtain future funding from CNCS. In addition, an entity jeopardizes its eligibility for reimbursement of costs and hours related to an individual if it fails to perform or properly document the required National Service Criminal History Check.

III. Non-Regulatory Matters

Coverage Based on Start Date

The table below illustrates what National Service Criminal History Check components are required of individuals serving or working after January 1, 2013.

		Individuals who, on or after the effective date of this rule, Began Work or Started Service											
	Recurring Access to vulnerable populations?	Before November 23, 2007			November 23, 2007 – September 30, 2009			October 1, 2009 – April 20, 2011			On or after April 21, 2011		
		N	S	F	N	S	F	N	S	F	N	S	F
AmeriCorps S & N	Yes	✓			✓	✓		✓	✓		✓	✓	✓
	No	✓			✓			✓	✓		✓	✓	
FGP	Yes	✓			✓	✓		✓	✓		✓	✓	✓
	No	✓			✓			✓	✓		✓	✓	
Senior Companion	Yes	✓			✓	✓		✓	✓		✓	✓	✓
	No	✓			✓			✓	✓		✓	✓	
RSVP staff	Yes	✓			✓			✓	✓		✓	✓	✓
	No	✓			✓			✓	✓		✓	✓	
VISTA grant-funded staff	Yes	✓			✓			✓	✓		✓	✓	✓
	No	✓			✓			✓	✓		✓	✓	
Learn & Serve	Yes	✓			✓			✓	✓		✓	✓	✓
	No	✓			✓			✓	✓		✓	✓	
Other Grant Programs	Yes	✓			✓			✓	✓		✓	✓	✓
	No	✓			✓			✓	✓		✓	✓	

N = NSOPW; S = State registry check; F = FBI fingerprint check

IV. Comments and Responses

CNCS published the proposed rule with a 30-day comment period in the **Federal Register** of July 6, 2011 (76 FR 39361). We received over 150 comments on the proposed rule. Most of the commenters identified themselves as representatives of grantees required to comply with the rule. The most relevant comments and our responses are set forth below.

Comment: The majority of commenters expressed disapproval with the rule's requirement that individuals working with vulnerable populations must submit their fingerprints to the FBI for a national criminal history background check. The commenters disapproved of the requirement because

the process for complying with the requirement is time consuming, costly, and logistically challenging for grantees and participants. As a result, the commenters said that the increased administrative and financial burden the requirement imposes on grantees will significantly impact their ability to recruit participants and operate effectively. Additionally, the commenters considered the requirement unnecessarily redundant, as many of the grantees already require individuals to complete several criminal history background checks and that the additional requirement of a fingerprint-based FBI check provides very little new information.

Response: We acknowledge the concerns expressed about the FBI fingerprinting process and the administrative impact the requirement may have on some grantees. We, like all executive agencies, may exercise discretion in issuing rules, but only to the extent discretion is granted to us by law. The law requires individuals working with vulnerable populations to submit their fingerprints to the FBI for a national criminal history check; however, the law also created exceptions to the fingerprint-based FBI criminal history check. Grantees may use the "episodic access" exception without our written approval. The other available exceptions require that you contact our Office of Grants Management for written approval. The procedure for requesting an exception is in 45 CFR 2540.207.

Comment: Several of the comments we received indicated that the cost of the FBI criminal history background check could be a financial burden for the grantee and for the participants and volunteers.

Response: We acknowledge the administrative and financial impact that the fingerprint-based FBI criminal history check could have on grantees. The law created exceptions to the fingerprint-based FBI criminal history check requirement for individuals in covered positions with recurring access to vulnerable populations, one of which is when it is cost-prohibitive for the grantee to comply. Grantees may request written approval of an exception by contacting our Office of Grants Management.

We want to reiterate that unless we grant specific permission in writing, a grantee may not charge an individual for the cost of any component of a National Service Criminal History Check. In the absence of specific written permission, the grantee must not, even when the check returns unfavorable results, require the applicant or participant to ultimately bear the cost of the criminal history check.

Comment: The U.S. Department of Justice, FBI, Criminal Justice Information Systems (CJIS) commented that the final rule did not adequately address the role played by the state central record repositories and requested that CNCS revise the rule to specify that entities must submit fingerprints to the FBI through the state central record repository.

Response: We agree and have amended the rule to reflect the process established by FBI CJIS to process the fingerprint-based FBI criminal history checks required by the SAA. State central record repositories are critical to the infrastructure established by FBI CJIS for the processing of national criminal history background checks. In its October 31, 2011 memorandum to state central record repositories on the implementation of the SAA, FBI CJIS stated that those organizations subject to the SAA (and this final rule) "must contact the state repository in the state of operation to determine if the organization can access national criminal history record information." In lieu of state statutory provisions, fingerprint-based state and national criminal history checks for CNCS grantees could be authorized by three federal legal authorities: the SAA, the National Child Protection Act, as amended by the Volunteers for Children Act, and Section 153 of the Adam Walsh Act. "Background checks conducted pursuant to the SAA must comply with certain criteria, to include fingerprints submitted via [a state central record repository], designation of a governmental agency to receive and screen the results of the record checks, and non-dissemination of the criminal history record information outside the receiving governmental department or related governmental agencies."

The FBI CJIS guidance to state repositories stated that "each national service organization must coordinate with the [state central records repository] in the states of program operation/residence to establish procedures for performing state and national criminal history record checks." The guidance specified further that

> "[e]ach [* * * repository] must request a unique Integrated Automated Fingerprint Identification System (IAFIS) originating agency identifier (ORI) or designate an existing ORI for exclusive use under the SAA. The repository must coordinate requests for ORI issuance, or use of a designated ORI, with FBI CJIS Division for programming. All fingerprints submitted to the FBI CJIS Division under this authority must include the program-designated ORI and be populated with "Serve America Act" or "Serve America Act-Volunteer" as the reason fingerprinted (RFP)."

The full text of the memorandum is available at *http://www.nationalserviceresources.org/files/fbi-memo-to-state-repositories-on-serve-america-act-oct-31-11.pdf.*

We believe that our State Commission partners, as well as state Departments on Aging, Child Welfare Agencies, and Education Agencies can be instrumental in engaging the state central record repositories to streamline the National Service Criminal History Check process for national service grantees operating in their states and ensure proper screening of individuals in covered positions and the full implementation of the SAA.

Comment: We received comments regarding the potential discriminatory effects that the use of criminal history checks by grantee organizations may have on individuals' ability to participate in National Service.

Response: The commenters identify an important issue. The use of criminal history records to exclude members and staff from Corporation-funded programs and activities may, in some circumstances, run afoul of federal civil rights laws. Grantees should recognize that they have a dual status under the Civil Rights Act of 1964, depending on the nature of their relationship with an individual. Grantees, as recipients of federal financial assistance, must comply with Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq., and its implementing regulations, 45 CFR 1203.1 et seq., which prohibit discrimination in Corporation-funded programs and activities, including the selection and placement of volunteers and members, on the basis of race, color, and national origin. Grantees, as employers, must also comply with Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq., which prohibits discrimination in employment decisions. The Equal Employment Opportunity Commission (EEOC) has issued guidance explaining when consideration of arrest and conviction records violates Title VII. See *http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm.* As explained in the EEOC guidance, grantees should be mindful that arrests alone are mere allegations, and that actual criminal convictions (where there has been a formal adjudication by a finder of fact), or actual evidence of conduct underlying an arrest, are the relevant indicators of an individual's fitness, or in some cases, eligibility (i.e., murder), to serve with, or work for, a Corporation

grantee. Grantees should ensure that their screening practices are narrowly tailored in a manner that complies with these federal nondiscrimination requirements, in addition to applicable state laws governing the consideration of criminal history records.

Grantees also should be mindful that applicants have the right to review and challenge the results of the National Service Criminal History Check. Grantees are required by our regulations to safeguard an individual's personal information and give the individual the opportunity to challenge any adverse findings that result from the National Service Criminal History Check.

Comment: We received comments requesting clarification of when the results of a National Service Criminal History Check make an individual ineligible to serve in a covered position.

Response: The law prohibits an individual from serving in a national service program in four situations: (1) The individual refuses to consent to the criminal history check; (2) the individual makes a false statement in connection with the criminal history check; (3) the individual is registered or required to be registered as a sex offender; or (4) the individual has been convicted of murder as defined by federal law. If the National Service Criminal History Check returns results that implicate criteria other than those above, the grantee has the discretion, subject to any federal civil rights law and state law requirements, to decide whether or not the results of a criminal history background check disqualify an individual from service with the grantee. Grantees should consider the factors set forth in the EEOC's guidance under Title VII (*http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm*), including the nature and gravity of the offense, the time that has passed since the conviction or completion of the sentence, and the nature of the position. Grantees should have written policies on their disqualification criteria and be consistent in how those criteria are applied to all individuals.

In addition, grantees should be aware of federal reentry policy, which seeks to minimize unjustified collateral consequences on formerly incarcerated persons. Participation in national service programs funded by the Corporation could aid the successful reentry of formerly incarcerated persons into society. Therefore, barriers to participation in national service programs for those formerly incarcerated persons who are not statutorily ineligible to serve should be minimized as much as possible without putting program beneficiaries at genuine risk.

Comment: We received comments expressing concern about many grantees' overall level of understanding or ability to interpret the results of a National Service Criminal History Check.

Response: Grantees should be aware that, due to pending cases, state law restrictions, and resource issues, the information contained in databases and reports for criminal histories may be missing certain arrest and disposition information. Accordingly, grantees should obtain training, and implement best practices, in the interpretation and use of criminal records for screening participants and staff. We have required grantees to conduct National Service Criminal History Checks since 2007, and have always required that they treat applicants fairly. We reiterate that the grantee is responsible for obtaining the level of expertise necessary to understand the information received in response to the National Service Criminal History Check and use it in a fair manner that is consistent with our regulations and grant conditions. Information obtained from a National Service Criminal History Check is only one of many sources of information that is available about an individual.

Comment: We received numerous comments on the proposed rule's requirement that National Service Criminal History Checks be repeated on individuals who serve consecutive terms of service with the same grantee when the break in service exceeds 30 days. The comments suggested that in view of the time it takes to complete the newly-required fingerprint-based FBI criminal background check, a 30-day break in service requirement imposes an additional administrative burden on seasonal or academic-year programs or projects.

Response: We agree with the commenters. The FBI fingerprint check takes longer than the process established under our 2007 rule and the SAA expands the number of individuals in covered positions. Balancing the administrative burden on grantees with the importance of proper screening, we determined that a longer break in service period is not unreasonable. Accordingly, the final rule reflects our decision to require that the National Service Criminal History Check be repeated if an individual's break in service exceeds 120 days, and also allows grantees to request approval for a longer break in service than 120 days, as long as the break does not exceed 180 days. The request must describe the program's design, explain why the longer period is required, and demonstrate the establishment of adequate risk management controls for the extended break in service. We want to clarify that consecutive terms of service requires that the individual serves another term with the same grantee. Checks performed by one grantee on an individual may not be transferred to another grantee. When an individual begins service with a new grantee, that grantee is responsible for conducting a new National Service Criminal History Check. Because the NSOPW is a free and widely-available resource, we encourage grantees with program designs where breaks in service are anticipated to conduct a new nationwide NSOPW check after a break in service of any duration.

Comment: We received comments seeking clarification about the status of individuals in covered positions who conducted the appropriate National Service Criminal History Check components when they began work or started service prior to April 21, 2011.

Response: The National Service Criminal History Check components of this rule apply to individuals in covered positions who begin work, or who start service, on or after, April 21, 2011. Grantees are responsible for ensuring that those individuals who began work, or who started service, prior to, April 21, 2011, conducted the appropriate National Service Criminal History Check components required by the regulation that was in effect prior to that date. If individuals in covered positions who began work, or who started service prior to, April 21, 2011, subsequently have a break in service that exceeds 120 days, or begins work or service with a different grantee, they must have a Check required by this final rule. If an individual serves consecutive terms of service in a covered position and does not have a break in service that exceeds 120 days, then no additional National Service Criminal History Check is required as long as the original check is a compliant check for the covered position in which the individual will be serving or working following the break in service.

Comment: We received numerous comments on the requirement that individuals working with vulnerable populations be accompanied while the components of their National Service Criminal History Check have been submitted, but not yet returned. Commenters suggested that we clarify what we mean by "accompaniment" and how to document it.

Response: The purpose of the National Service Criminal History Check is to screen out those individuals

who may pose a risk to the population being served. Accompaniment requires that an individual for whom the National Service Criminal History Check components are pending be, at all times, in the physical presence of (1) an authorized grantee representative who has been previously cleared for such access; (2) a family member or legal guardian of the vulnerable individual; or (3) an individual authorized by the nature of his or her profession to have recurring access to the vulnerable individual, such as an education or medical professional. Accompaniment provides grantees with the opportunity to place participants in service positions before the criminal history background check is complete. Supervision is insufficient because it doesn't provide the immediate oversight that would mitigate risk of a participant's improper conduct sought to be avoided by the National Service Criminal History Check. We have updated the rule to reflect more accurately our intent that accompaniment means that the individual must be in the physical presence of the accompanying individual.

The Office of Grants Management will issue guidance to grantees prior to the effective date of this final rule on how to document compliance with the accompaniment requirements.

Comment: We also received comments requesting clarification on how to apply the rule to individuals who reach the age of 18 during their service term.

Response: A National Service Criminal History Check is required for individuals who are, or who will reach the age of, 18 or older at any time during their service term. The Check must be conducted in accordance with 2450.204, even if the individual is not yet 18 at the time service or work begins. The final rule reflects this clarification.

Comment: Some comments identified areas in the proposed rule where the distinction between exceptions and alternative search procedures was unclear. Other commenters articulated specific challenges they faced in obtaining the required checks.

Response: Since implementation of the original National Service Criminal History Check rule in 2007, we have evaluated and approved alternative search procedures when grantees submitted a written request for evaluation of a proposed alternative search procedure. This practice will continue under the new rule. The law also gives us the authority to exempt grantees from conducting the fingerprint-based FBI criminal history check required under the new rule for individuals in covered positions with recurring access to vulnerable populations. We acknowledge the confusion in the wording of the proposed rule. We have revised the final rule so that the requirements and procedures are clear.

With respect to the comments we received regarding particular challenges grantees face under the new rule, we cannot address those here. Grantees with individual challenges that they believe will justify an exception from § 2540.203(b)(2)(iii) should contact our Office of Grants Management or their Program Officer.

Comment: We received comments requesting clarification of the "episodic access" exception from the fingerprint-based FBI criminal history background check requirement for individuals with recurring access to vulnerable populations.

Response: A grantee does not need our approval to use the "episodic access" exception to the fingerprint-based FBI criminal history check requirement described in § 2540.203(b)(2)(iii). This is a self-determination grantees will make using the guidance in this notice. We will continue to monitor grantees for compliance with the criminal history background check requirement, including reliance on the episodic access exception.

Comment: CNCS received comments indicating that the proposed rule was unclear as to when approval from CNCS is required for individuals in covered positions with recurring access to vulnerable populations to be excepted from the fingerprint-based FBI criminal history check.

Response: The final rule has been restructured with new headings to indicate clearly when CNCS approval is required. In the case of episodic access, grantees are responsible for using their best judgment to determine whether or not an individual's access to vulnerable populations is episodic. Approval from the CNCS Office of Grants Management is not required. However, reliance on the self-determined exception for "episodic access" will be monitored by CNCS as a material grant condition.

Comment: We received numerous comments expressing concern about our ability to process requests for alternative search procedure approval and fingerprint-based FBI criminal history check exceptions in a timely manner and what grantees should do while their requests are pending.

Response: The Office of Grants Management is prepared to process requests from grantees in a prompt manner. This function may not be delegated to a grantee, such as a State Commission. However, a State Commission may request approval for an alternative search procedure applicable to individual sub-grantees, or to all of their sub-grantees, if applicable. While results of the National Service Criminal History Check are pending, individuals in covered positions with recurring access to vulnerable populations must be accompanied. The final rule and preamble have been updated to clarify this requirement.

V. Effective Dates and Implementation

This final rule becomes effective January 1, 2013. However, the special rule for individuals in covered positions with recurring access to vulnerable populations will only apply to the selection of individuals in covered positions who began work or who started service with a grantee on, or after, April 21, 2011. Notwithstanding this date, grantees will have until January 1, 2013 to *initiate* the fingerprint-based FBI criminal history check or the state registr(ies) check(s), whichever has not already been initiated, for individuals in covered positions with recurring access to vulnerable populations. A grantee must be certain that it has already satisfied the requirement to conduct an NSOPW check on all individuals who are currently serving or working in covered positions.

Because of the significant period of time between April 21, 2011, and the effective date of the regulation, CNCS has determined that, as a blanket good cause exception implemented by section 2540.207(b)(2) of this final rule, an individual in a covered position with recurring access to vulnerable populations who began work or who started service with a grantee on or after April 21, 2011, and then departed the program or project before January 1, 2013, must have complied with the rule effective on October 1, 2009 (i.e. had a Check that included the NSOPW component and either the State Criminal History registr(ies) component OR the fingerprint-based FBI national criminal history background check component, but not BOTH the State Criminal History registr(ies) component AND the fingerprint-based FBI national criminal history background check component).

VI. Regulatory Procedures

Executive Orders 12866 and Executive Order 13563

Executive Orders 13563 and 12866 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). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a "significant regulatory action," although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

As required by the Regulatory Flexibility Act of 1980 (5 U.S.C. 605 (b)), the Corporation certifies that this rule, if adopted, will not have a significant economic impact on a substantial number of small entities. This regulatory action 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 on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, CNCS has not performed the initial regulatory flexibility analysis that is required under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) for major rules that are expected to have such results.

Unfunded Mandates

For purposes of Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, as well as Executive Order 12875, this regulatory action does not contain any Federal mandate that may result in increased expenditures in either federal, state, local, or tribal governments in the aggregate, or impose an annual burden exceeding $100 million on the private sector.

Paperwork Reduction Act

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the recordkeeping requirements included in this final rule have been submitted for emergency approval to the Office of Management and Budget (OMB). Due to an oversight, the Paperwork Reduction Act information was not included in the proposed rule and CNCS is requesting a short-term emergency clearance (OMB Control Number 3045–0145). In order to fairly evaluate whether a recordkeeping requirement 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 recordkeeping requirement 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.

Under a separate notice, we will solicit public comment on each of these issues for the following sections of this document that contain recordkeeping requirements: 2540.205, .206.

Executive Order 13132, Federalism

Executive Order 13132, Federalism, prohibits an agency from publishing any rule that has Federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. The proposed rule does not have any Federalism implications, as described above.

List of Subjects

45 CFR Part 2510

Grant programs—social programs, Volunteers.

45 CFR Part 2522

Grant programs—social programs, Reporting and recordkeeping requirements, Volunteers.

45 CFR Part 2540

Administrative practice and procedure, Grant programs—social programs, Reporting and recordkeeping requirements, Volunteers.

45 CFR Part 2551

Aged, Grant programs—social programs, Volunteers.

45 CFR Part 2552

Aged, Grant programs—social programs, Volunteers.

For the reasons stated in the preamble, the Corporation for National and Community Service proposes to amend chapter XXV, title 45 of the Code of Federal Regulations as follows:

PART 2510—OVERALL PURPOSES AND DEFINITIONS

■ 1. The authority citation for Part 2510 continues to read as follows:

Authority: 42 U.S.C. 12511.

■ 2. Amend § 2510.20 by revising the definition of "program" to read as follows:

§ 2510.20 Definitions.

* * * * *

Program. The term program, unless the context otherwise requires, and except when used as part of the term academic program, means a program described in the National and Community Service Act of 1990, as amended (42 U.S.C. 12501 et seq.), in section 112(a) (other than a program referred to in paragraph (3)(B) of that section), 118A, or 118(b)(1), or subsection (a), (b), or (c) of section 122, or in paragraph (1) or (2) of section 152(b), section 198B, 198C, 198H, or 198K, or an activity that could be funded under section 179A, 198, 198O, 198P, or 199N.

* * * * *

PART 2522—AMERICORPS PARTICIPANTS, PROGRAMS, AND APPLICANTS

■ 1. The authority citation for Part 2522 continues to read as follows:

Authority: 42 U.S.C. 12571–12595; 12651b–12651d; E.O. 13331, 69 FR 9911.

■ 2. Amend § 2522.200 by removing the period at the end of paragraph (a)(3) and adding a semicolon in its place and adding paragraph (a)(4) to read as follows:

§ 2522.200 What are the eligibility requirements for an AmeriCorps participant?

(a) * * *

(4) Satisfy the National Service Criminal History Check eligibility criteria pursuant to 45 CFR 2540.202.

* * * * *

■ 3. Revise § 2522.205 to read as follows:

§ 2522.205 To whom must I apply the National Service Criminal History Check eligibility criteria?

You must apply the National Service Criminal History Check eligibility criteria to individuals serving in covered positions. A covered position is a position in which the individual receives an education award or a Corporation grant-funded living allowance, stipend, or salary.

§ 2522.206 [Removed and Reserved]

■ 4. Remove and reserve § 2522.206.

■ 5. Revise § 2522.207 to read as follows:

§ 2522.207 How do I determine an individual's eligibility to serve in a covered position?

To determine an individual's eligibility to serve in a covered position, you must follow the procedures in part 2540 of this chapter.

PART 2540—GENERAL ADMINISTRATIVE PROVISIONS

■ 6. The authority citation for part 2540 continues to read as follows:

Authority: E.O. 13331, 69 FR 9911; 18 U.S.C. 506, 701, 1017; 42 U.S.C. 12653, 12631–12637; 42 U.S.C. 5065.

■ 7. Revise § 2540.200 to read as follows:

§ 2540.200 What does "you" mean in this section?

As used in this section, "you" means a Corporation grantee or other entity subject to Corporation grant provisions. Unless the context otherwise requires, this includes, but is not limited to, recipients of federal financial assistance under grant programs defined in § 2510.20 of this chapter as well as projects under the Senior Companion Program, the Foster Grandparent Program, and RSVP.

■ 8. Revise § 2540.201 to read as follows:

§ 2540.201 To whom must I apply the National Service Criminal History Check eligibility criteria?

You must apply the National Service Criminal History Check eligibility criteria to individuals serving in covered positions. A covered position is a position in which the individual receives an education award or a Corporation grant-funded living allowance, stipend, or salary.

■ 9. Revise § 2540.202 to read as follows:

§ 2540.202 What eligibility criteria must I apply to a covered position in connection with the National Service Criminal History Check?

In addition to the eligibility criteria you establish, an individual shall be ineligible to serve in a covered position if the individual—

(a) Refuses to consent to a criminal history check described in § 2540.203 of this chapter;

(b) Makes a false statement in connection with a criminal history check described in § 2540.203 of this chapter;

(c) Is registered, or is required to be registered, on a state sex offender registry or the National Sex Offender Registry; or

(d) Has been convicted of murder, as defined in 18 U.S.C. 1111.

■ 10. Revise § 2540.203 to read as follows:

§ 2540.203 What search components of the National Service Criminal History Check must I satisfy to determine an individual's eligibility to serve in a covered position?

(a) *Search procedure for individuals in covered positions who do not have recurring access to vulnerable populations.* Unless the Corporation approves an alternative search procedure under § 2540.207 of this chapter, to determine an individual's eligibility to serve in a covered position, you must conduct and document a National Service Criminal History Check that consists of the following components:

(1) A nationwide name-based search of the Department of Justice (DOJ) National Sex Offender Public Web site (NSOPW), and

(2) Either:

(i) A name- or fingerprint-based search of the official state criminal history registry for the state in which the individual in a covered position will be primarily serving or working *and* for the state in which the individual resides at the time of application; or

(ii) Submission of fingerprints through a state central record repository for a fingerprint-based Federal Bureau of Investigation (FBI) national criminal history background check.

(b) Search procedure for *individuals in covered positions who have recurring access to vulnerable populations.* (1) This rule applies to individuals who:

(i) Begin working for, or who start service with, you on or after April 21, 2011;

(ii) Will be 18 years old or older at any time during their term of service; and

(iii) Serve in a covered position that will involve recurring access to children age 17 years or younger, to individuals age 60 years or older, or to individuals with disabilities.

(2) Unless the Corporation approves an alternative search procedure or an exception under § 2540.207 of this chapter, to determine the eligibility of an individual described in paragraph (b)(1) of this section you must conduct and document a National Service Criminal History Check that consists of the following components:

(i) A nationwide name-based search of the Department of Justice (DOJ) National Sex Offender Public Web site (NSOPW);

(ii) A name- or fingerprint-based search of the official state criminal history registry for the state in which the individual in a covered position will be primarily serving or working *and* for the state in which the individual resides at the time of application; and

(iii) Submission of fingerprints through a state central record repository for a fingerprint-based FBI national criminal history background check.

■ 11. Revise § 2540.204 to read as follows:

§ 2540.204 When must I conduct a National Service Criminal History Check on an individual in a covered position?

(a) *Timing of the National Service Criminal History Check Components.* (1) You must conduct and review the results of the nationwide NSOPW check required under § 2540.203 before an individual in a covered position begins work or starts service.

(2) You must initiate state registry or FBI criminal history checks required under § 2540.203 before an individual in a covered position begins work or starts service. You may permit an individual in a covered position to begin work or start service pending the receipt of results from state registry or FBI criminal history checks as long as the individual is not permitted access to children age 17 years or younger, to individuals age 60 years or older, or to individuals with disabilities, without being in the physical presence of an appropriate individual, as described in § 2540.205(g) of this chapter.

(b) *Consecutive terms.* If an individual serves consecutive terms of service in a covered position and does not have a break in service that exceeds 120 days, then no additional National Service Criminal History Check is required, as long as the original check is a compliant check for the covered position in which the individual will be serving or working following the break in service. If your program or project is designed with breaks in service over 120 days, but less than 180 days between consecutive terms, you may request approval for a break in service of up to 180 days before a new National Service Criminal History Check is required. Your request must describe the overall program design, explain why the longer period is reasonable, and demonstrate that you have established adequate risk management controls for the extended break in service.

■ 12. Revise § 2540.205 to read as follows:

§ 2540.205 What procedures must I follow in conducting a National Service Criminal History Check for a covered position?

You are responsible for following these procedures:

(a) Verify the individual's identity by examining the individual's government-issued photo identification card, such as a driver's license;

(b) Obtain prior, written authorization from the individual for the State registry check, for the FBI criminal history check, and for the appropriate sharing of the results of the checks within the program. Prior written authorization from the individual is not required to conduct the nationwide NSOPW check;

(c) Document the individual's understanding that selection into the program is contingent upon the organization's review of the individual's National Service Criminal History Check component results, if any;

(d) Ensure that screening practices comply with federal civil rights laws, including Titles VI and VII of the Civil Rights Act of 1964 (and the Corporation's implementing regulations under Title VI);

(e) Provide a reasonable opportunity for the individual to review and challenge the factual accuracy of a result before action is taken to exclude the individual from the position;

(f) Provide safeguards to ensure the confidentiality of any information relating to the criminal history check, consistent with authorization provided by the applicant; and

(g) Ensure that an individual, for whom the results of a required state or FBI criminal history registry check are pending, is not permitted to have access to children age 17 years or younger, to individuals age 60 years or older, or to individuals with disabilities without being in the physical presence of:

(1) Your authorized representative who has previously been cleared for such access;

(2) A family member or legal guardian of the vulnerable individual; or

(3) An individual authorized, because of his or her profession, to have recurring access to the vulnerable individual, such as an education or medical professional.

(h) Unless specifically approved by the Corporation, you may not charge an individual for the cost of any component of a National Service Criminal History Check.

■ 13. Revise § 2540.206 to read as follows:

§ 2540.206 What documentation must I maintain regarding a National Service Criminal History Check for a covered position?

You must:

(a) Document in writing that you verified the identity of the individual in a covered position by examining the individual's government-issued photo identification card, and that you conducted the required checks for the covered position; and

(b) Maintain the results, or a results summary issued by a State or Federal government body, of the NSOPW check and the other components of each National Service Criminal History Check, unless precluded from doing so by State or Federal law or regulation. You must also document in writing that an authorized grantee representative considered the results of the National Service Criminal History Check in selecting the individual.

■ 14. Revise § 2540.207 to read as follows:

§ 2540.207 When may I follow an alternative search procedure or be excepted from a requirement in conducting a National Service Criminal History Check for a covered position?

(a) *Alternative search procedure.* (1) If you submit a written request to the Corporation's Office of Grants Management, the Corporation will consider approving an alternative search procedure:

(i) If you demonstrate that you are prohibited or otherwise precluded under state law from complying with a Corporation requirement relating to the National Service Criminal History Check, or

(ii) If you can obtain substantially equivalent or better information through an alternative search procedure.

(2) The Office of Grants Management will review the alternative search procedure to ensure that it:

(i) Verifies the identity of the individual; and

(ii) Includes a search of an alternative criminal database that is sufficient to identify the existence or absence of criminal offenses.

(b) *Exceptions to Criminal History Check requirements for individuals with recurring access to vulnerable populations.* (1) *Exception that does not require prior Corporation approval—Episodic Access.* (i) For the purposes of this section, an individual's access to a vulnerable population is considered to be episodic in nature if the service is not a regular, scheduled, and anticipated component of the individual's position description.

(ii) You are not required to conduct the fingerprint-based FBI criminal history check on individuals in covered positions with recurring access to vulnerable populations, as described in § 2540.203 of this chapter, when the individual's access to a vulnerable population is episodic in nature or for a 1-day period.

(iii) No prior approval is required from the Corporation for you to apply this exception. You must make and document a determination that the individual's access to vulnerable populations is episodic, as defined by paragraphs (b)(1)(i) and (ii) of this section.

(2) *Exceptions that require prior approval of the Corporation.* You are not required to conduct the fingerprint-based FBI criminal history check on individuals in covered positions with recurring access to vulnerable populations, as described in § 2540.203 of this chapter, if you demonstrate and the Corporation determines in writing that:

(i) Complying with § 2540.203(b)(2)(iii) of this chapter is cost-prohibitive;

(ii) You are not authorized, or are otherwise unable, under state or federal law, to access the national criminal history background check system of the FBI; or

(iii) That you are exempt from the requirement in § 2540.203(b)(2)(iii) of this chapter for good cause.

PART 2551—SENIOR COMPANION PROGRAM

■ 15. The authority citation for part 2551 continues to read as follows:

Authority: 42 U.S.C. 4950 *et seq.;* 42 U.S.C. 12651b–12651d; E.O. 13331, 69 FR 9911.

■ 16. Amend § 2551.23 by adding paragraph (l) to read as follows:

§ 2551.23 What are the sponsor's program responsibilities?

* * * * *

(l) Conduct criminal history checks on all Senior Companions and Senior Companion grant-funded employees who start service, or begin work, in your program after November 23, 2007, in accordance with the National Service Criminal History Check requirements in 45 CFR 2540.200 through 2540.207.

§§ 2551.26 through 2551.32 [Removed and Reserved].

■ 17. Remove and reserve §§ 2551.26 through 2551.32.

PART 2552—FOSTER GRANDPARENT PROGRAM

■ 18. The authority citation for Part 2552 continues to read as follows:

Authority: 42 U.S.C. 4950 *et seq.,* 42 U.S.C. 12651b–12651d; E.O. 13331, 69 FR 9911

■ 19. Amend § 2552.23 by adding paragraph (l) to read as follows:

§ 2552.23 What are a sponsor's program responsibilities?

* * * * *

(l) Conduct criminal history checks on all Foster Grandparents and Foster Grandparent grant-funded employees who start service, or begin work, in your program after November 23, 2007, in accordance with the National Service Criminal History Check requirements in 45 CFR 2540.200 through 2540.207.

§§ 2552.26 through 2552.32 [Removed and Reserved]

■ 20. Remove and reserve §§ 2552.26 through 2552.32.

Dated: September 28, 2012.

Valerie Green,

General Counsel.

[FR Doc. 2012–24467 Filed 10–4–12; 8:45 am]

BILLING CODE 6050–28–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[CG Docket No. 12–39; DA 12–1545]

Termination of Certain Proceedings as Dormant

AGENCY: Federal Communications Commission.

ACTION: Final rule; termination of proceedings.

SUMMARY: In this document, the Commission, via the Consumer and Governmental Affairs Bureau (CGB) terminates, as dormant, certain docketed Commission proceedings. Termination of these inactive proceedings furthers the Commission's organizational goals of increasing the efficiency of its decision-making, modernizing the agency's processes in the digital age, and enhancing the openness and transparency of Commission proceedings for practitioners and the public.

DATES: Effective October 5, 2012.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Deborah Broderson, Consumer and Governmental Affairs Bureau at (202) 418–0652, or email: *Deborah.Broderson@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Order, *Termination of Certain Proceedings as Dormant,* document DA 12–1545, adopted September 27, 2012 and released on September 27, 2012, in CG Docket No. 12–39. On June 3, 2011, the Commission sought comment on whether certain listed docketed Commission proceedings should be terminated as dormant. *See* 76 FR 35892, June 20, 2011. On September 30, 2011, in a subsequent action, the Commission terminated, as dormant, certain docketed Commission proceedings. *See* 76 FR 70902, November 16, 2011. On February 15, 2012, the Commission sought comment on whether additional docketed Commission proceedings should be terminated as dormant. *See* 77 FR 13322, March 6, 2012. The full text of document DA 12–1545 and copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. Document DA 12–1545 and copies of subsequently filed documents in this matter may also be purchased from the Commission's duplicating contractor, Best Copying and Printing, Inc. (BCPI), at Portals II, 445 12th Street SW., Room CY–B402, Washington, DC 20554. Customers may contact BCPI at its Web site, *www.bcpiweb.com,* or by calling (202) 488–5300. Document DA 12–1545 can also be downloaded in Word or Portable Document Format (PDF) at: *http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-1545A1.doc,* or *http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-1545A1.pdf.*

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Final Paperwork Reduction Act of 1995 Analysis

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Synopsis

1. On February 4, 2011, the Commission released *Amendment of Certain of the Commission's Part 1 Rules of Practice and Procedure and Part 0 Rules of Commission Organization,* Report and Order, FCC 11–16, in CG Docket No. 11–44, published at 76 FR 24383, May 2, 2011 (Procedure Order), which revised portions of its Part 1—Practice and Procedures and Part 0—Organizational rules. The amendment of § 0.141 of the Commission's organizational rules delegated authority to the Chief, CGB to conduct periodic review of all open dockets with the objective of terminating those that were inactive. The Commission stated that termination of such proceedings also will include the dismissal as moot of any pending petition, motion, or other request for relief in the terminated proceeding that is procedural in nature or otherwise does not address the merits of the proceeding. On February 15, 2012, the Commission released *Termination of Certain Proceedings as Dormant,* Public Notice, DA 12–220, CG Docket No. 12–39, published at 77 FR 13322, March 6, 2011 (*Termination Public Notice*), which identified those dockets that could potentially be terminated and provided interested parties the opportunity to file comments on these proposed terminations. Based upon CGB's review of the two comments received in response to the *Termination Public Notice,* and for the reasons given below, CGB hereby terminates the proceedings that are listed in the Attachment to DA 12–1545, which were previously listed in DA 12–220. See *http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-220A1.doc.*

2. CGB received two comments requesting that particular proceedings noted in the *Termination Public Notice* remain open. Based upon CGB's review of these comments, for the reasons noted below, CGB rejects the request of the New Jersey Broadcasters Association (NJBA) to retain RM–11099. Based on the request of the Office of Communication of the United Church of Christ, Inc., National Hispanic Media Coalition, Campaign Legal Center, Media Access Project, Benton Foundation, and Free Press (collectively, UCC), and our further evaluation, MB Docket No. 05–6 will remain open and will not be terminated at this time. On our own motion as described below, CGB has also determined not to terminate two additional proceedings listed in the Termination Public Notice.

3. NJBA asks that we maintain as active RM–11099, which had been initiated by the May 27, 2004 filing of NJBA's Petition entitled "In the Matter of the Commissions' Rules to Protect New Jersey Listeners from FM

Translator and Low Power FM 100 Watt Interference." As acknowledged by NJBA, materials in both its Petition and its Comments relate to the LPFM and FM translator services. On March 19, 2012, the Commission released a Fifth Report and Order and Fourth Further Notice of Proposed Rulemaking in MM Docket No. 99–25, published at 77 FR 20756, April 6, 2012, a proceeding that relates specifically to those services. Given the common subject matter, the materials in the proceeding that the NJBA seeks to keep open are applicable to and may be filed again in ongoing MM Docket No. 99–25. For this reason, CGB denies NJBA's request to keep RM–11099 open.

4. The UCC requests that the Commission keep open MB Docket No. 05–6. Although the *Termination Public Notice* proposed closing this proceeding, based upon both the UCC's comments and CGB's additional evaluation, we find that further action in the proceeding, which proposes modification of the Commission's rules to make more clear broadcasters' public notice of the proposed sale of their stations, may be required. Accordingly, CGB will not terminate the proceeding at this time.

5. As a final matter, although the Termination Public Notice proposed closing Rules and Policies Concerning Attribution of Joint Sales Agreements In Local Television Markets (MB Docket No. 04–256) and 1998 Biennial Regulatory Review—Review of Accounts Settlement in the Maritime Mobile and Mobile-Satellite Radio Services (IB Docket No. 98–96), upon further sua sponte evaluation, CGB finds that further action may also be necessary in these docketed proceedings. Accordingly, CGB will not terminate these proceedings at this time. In addition, the Media Bureau has concluded that the termination of the proceeding Retention by Broadcasters of Program Recordings (MB Docket No. 04–232) will not affect the Commission's authority to initiate enforcement actions, as it deems appropriate, and accordingly CGB terminates that proceeding as dormant.

Regulatory Flexibility Act

6. The Commission's action does not require notice and comment and is not subject to the Regulatory Flexibility Act of 1980, as amended. *See* 5 U.S.C. 601(2), 603(a). The Commission nonetheless notes that it anticipates that the rules adopted will not have a significant economic impact on a substantial number of small entities. As described above, the Commission primarily changes its own internal procedures and organizations and does not impose substantive new responsibilities on regulated entities. There is no reason to believe termination of certain dormant proceedings would impose significant costs on parties to Commission proceedings. To the contrary, the Commission takes the actions herein with the expectation that overall they will make dealings with the Commission quicker, easier, and less costly for entities of all size.

Congressional Review Act

The Commission will not send a copy of document DA 12–1545 pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A) because the Commission is not adopting, amending, revising, or deleting any rules.

Ordering Clauses

Pursuant to sections 1, 4(i), and 4(j), of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), and (j) and § 0.141 of the Commission rules, the proceedings listed in the Attachment to DA 12–1545, which can be downloaded in Word or Portable Document Format (PDF) at: *http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-1545A1.doc* or *http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-12-1545A1.pdf, are terminated.*

Federal Communications Commission.

Kris Anne Monteith,

Acting Chief, Consumer and Governmental Affairs Bureau.

[FR Doc. 2012–24643 Filed 10–4–12; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 107, 171, 172, 173, 175, 178, and 179

RIN 2137–AE90

[Docket No. PHMSA–2012–0080 (HM–244E)]

Hazardous Materials: Minor Editorial Corrections and Clarifications (RRR)

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Final rule.

SUMMARY: This final rule corrects editorial errors, makes minor regulatory changes and, in response to requests for clarification, improves the clarity of certain provisions in the Hazardous Materials Regulations. The intended effect of this rule is to enhance the accuracy and reduce misunderstandings of the regulations. The amendments contained in this rule are non-substantive changes and do not impose new requirements.

DATES: *Effective:* October 5, 2012.

Incorporation by reference date: The incorporation by reference of certain publications listed in this rule was approved by the Director of the Federal Register as of September 11, 2006.

FOR FURTHER INFORMATION CONTACT: Joan McIntyre, Standards and Rulemaking Division, 202–366–8553, PHMSA, East Building, PHH–10, 1200 New Jersey Avenue SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Background

The Pipeline and Hazardous Materials Safety Administration (PHMSA) annually reviews the Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180) to identify typographical errors, outdated addresses or other contact information, and similar errors. In this final rule, we are correcting typographical errors, incorrect Code of Federal Regulations (CFR) references and citations, inconsistent use of terminology, misstatements of certain regulatory requirements, and inadvertent omissions of information. Because these amendments do not impose new requirements, notice and public comment are unnecessary. By making these amendments effective without the customary 30-day delay following publication, the changes will appear in the next published revision of the 49 CFR.

II. Section-by-Section Review

The following is a section-by-section summary of the minor editorial corrections and clarifications made in this final rule.

Part 107

Section 107.202

This section describes the standards in 49 U.S.C. 5125 for determining

preemption of a State, local, or Indian tribe requirement applicable to the transportation of hazardous material. Paragraph 5125(b)(1)(D) was recently amended in the "Moving Ahead for Progress in the 21st Century" (MAP–21) Act (Pub. L. 112–141 § 33006(d), 126 Stat. 835, July 6, 2012) which added the words "other written hazardous materials transportation incident reporting involving State or local emergency responders in the initial response to the incident." Because this additional language simply sets forth the wording of the Federal hazardous material transportation law, it is considered an editorial change.

Part 171

Section 171.7

Section 171.7, paragraph (a), lists materials incorporated by reference into the HMR. In paragraph (a)(3), the tensile strength of "1100" MPa for the entries "ISO 9809–1," and "ISO 9809–2," has an unnecessary space and reads "1 100." We are removing this additional space in this final rule.

Section 171.8

Section 171.8 provides definitions and abbreviations used throughout the HMR. We are making two revisions to this section.

The spelling of the entry for "Containership" is amended by revising the word to read "Container ship." Although both spellings are correct, we are revising the spelling for consistency throughout the HMR, which should aid in HMR searches. This is an editorial change that does not impact any statements, shipping papers, et cetera.

The last sentence of the definition for "Hazardous material" reads in part, "and materials that meet the defining criteria for hazard classes and divisions in part 173 of subchapter C of this chapter." For clarification and consistency with other sections in the HMR, we are revising the sentence to read "and materials that meet the defining criteria for hazard classes and divisions in part 173 of this subchapter."

Part 172

Section 172.101

This section contains the Hazardous Materials Table (HMT) and explanatory text for each of the columns in the HMT. A final rule published on January 19, 2011 [76 FR 3308] under Docket PHMSA 2009–0126 (HM–215K) entitled "Hazardous Materials: Harmonization with the United Nations Recommendations, International Maritime Dangerous Goods Code, and the International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air," revised the § 172.101(c)(10)(i) instruction for the proper shipping name description of a mixture or a solution of a single predominant hazardous material under certain conditions. Currently, § 172.101(c)(10)(ii) states that if one or more of the conditions in § 172.101(c)(10)(i) is satisfied, a proper shipping name shall be selected as prescribed in § 172.101(c)(12)(ii). For clarification, in this final rule, we are correcting the citation so that the sentence reads "that if one or more of the conditions in § 172.101(c)(10)(i)(A) through(F) is satisfied, the proper shipping name selection process in § 172.101(c)(12)(ii) must be used."

Section 172.101 The Hazardous Materials Table

In the HMT, Special Provision B37 is erroneously applied to Column (7) for the Packing Group I entry of "Cyanide solutions, n.o.s.," UN1935. Special Provision B37 once applied to "Nitric oxide, compressed," but does not address or apply to cyanide solutions. Therefore, in this final rule, Special Provision B37 is being removed from Column (7) of the HMT for "Cyanide solutions, n.o.s.," UN1935. (Also, see § 172.102.)

In a final rule published on March 5, 1999 [64 FR 10742] under Docket Number RSPA–98–4185 (HM–215C) entitled "Harmonization with the United Nations Recommendations, International Maritime Dangerous Goods Code, and International Civil Aviation Organization's Technical Instructions," a plus (+) sign was added to Column (1) of the HMT for the entry "Aminophenols (*o-; m-; p-*)," UN2512. During the printing process, the isomers were inadvertently changed from Italic font to Roman font. In this final rule, we are correcting the font to Italic. Words in italics are not part of the proper shipping name, but may be used in addition to the proper shipping name.

Section 172.102

This section prescribes the special provisions assigned to § 172.101 HMT entries. Special provisions with a "B" code apply to bulk packagings. Special provisions with an "N" code apply to non-bulk packagings. Aside from the entry "Cyanide solutions, n.o.s," UN1935, the Special Provisions B37, B50, B60, and N72 are not assigned to any entries in the HMT and are being removed from § 172.102 in this final rule. In addition, Special Provision B37 is being removed from the entry, "Cyanide solutions, n.o.s," UN1935 (see preamble discussion under "§ 172.101, The Hazardous Materials Table"). For background information on the "B" and "N" codes being removed, the following is provided:

- Special Provision B37 required that the amount of nitric oxide charged into any tank car tank not exceed 1,379 kPa (200 psig) at 21 °C (70 °F).
- Special Provision B50 required that, when transported in a multi-unit tank car tank, each valve outlet of a multi-unit tank car tank was to be sealed by a threaded solid plug or a threaded cap with inert luting or gasket material. Valves were to be stainless steel and the caps, plugs, and valve seats were to be of a material that would not deteriorate as a result of contact with the lading.
- Special Provision B60 authorized certain entries in the HMT to be transported in DOT Specification 106A500X multi-unit tank car tanks that were not equipped with a pressure relief device of any type. For the transportation of phosgene, the outage was required to be sufficient to prevent tanks from becoming liquid full at 55 °C (130 °F).
- Special Provision N72 required that packagings used to transport the material for certain entries in the HMT were to be examined by the Bureau of Explosives and approved by the Associate Administrator.

Section 172.204

This section prescribes requirements for the shipper's certification. In paragraph (a)(2), the spelling of the word "labelled" is revised to read "labeled." Although both spellings are correct, we are revising this spelling for consistency throughout the HMR. It should be noted that this is merely an editorial change and does not invalidate certification statements that have the "labelled" spelling.

Section 172.514

This section prescribes the placarding requirements for a bulk packaging containing a hazardous material as specified for the material in §§ 172.504 and 172.505. In paragraph (c)(4), as amended under a final rule published on July 20, 2011 [76 FR 43510] under Docket PHMSA–2009–0151 (HM–218F) entitled "Hazardous Materials: Miscellaneous Amendments," we are correcting two errors that occurred during the printing process of this section. In this final rule, we are adding the wording "white square-on-point" for consistency with the identification number marking requirements under § 172.332, and making an editorial and punctuation correction at the end of the

sentence to return the paragraph (c) exceptions to an "and" clause. Prior to the July 20, 2011 rulemaking, if any of the five conditions specified in paragraph (c) were satisfied, the labeling alternative to placarding was authorized. Changes under HM–218F made this less clear.

Part 173

Section 173.12

This section prescribes the exceptions for the shipment of waste materials. In paragraphs (b)(2)(ii)(B) and (b)(2)(ii)(C), the unit conversions of 3 mils and 6 mils to inches is corrected in this final rule from "0.12 inches" and "0.24 inches" to read "0.003 inches" and "0.006 inches," respectively.

Section 173.35

This section prescribes the requirements for hazardous materials in intermediate bulk containers (IBCs). Paragraph (h)(2) was revised in a final rule published on February 2, 2010 [75 FR 5376] under Docket PHMSA–06–25736 (HM–231) entitled "Hazardous Materials; Miscellaneous Packaging Amendments." The revision in that rule corrected an error in the pressure limitation for metal IBC's. During the printing process, paragraph (h) introductory text was inadvertently omitted and its intended subparagraphs were mistakenly added to paragraph (g). We are correcting these errors in this rulemaking. The subparagraphs mistakenly added to paragraph (g) are reinserted into paragraph (h) and paragraph (g) will again stand alone as intended and submitted to the **Federal Register**.

Section 173.134

This section prescribes the definitions and exceptions for Class 6, Division 6.2 hazardous materials. In § 173.134, the last paragraph addressing transitional provisions was inadvertently alphanumerically numbered with a "(c)," which mistakenly duplicates another alphanumerical number in this section. This oversight is corrected in this final rule by renumbering the paragraph as "(e)." We will remove this paragraph in a future rulemaking. However, until that time, it will remain in the HMR as an informational paragraph to state that the authorization for the continued use of the criteria for packing group assignments in effect on December 31, 2006 ended on January 1, 2012.

Section 173.159a

This section prescribes the exceptions for non-spillable batteries. In this final rule, we are clarifying the introductory text for § 173.159a(c) that the exception from the packaging requirements in § 173.159 does not include an exception from the vibration and pressure differential tests in § 173.159(f) for determination of a wet battery as non-spillable. Specifically, we are revising the wording to read "non-spillable batteries, as determined in accordance with § 173.159(f) of this subpart, are excepted from the packaging requirements of § 173.159 under the following conditions:"

Section 173.319

This section prescribes the requirements for cryogenic liquids in tank cars. We are revising paragraph (a)(3) to update the email address and telephone number for the shipper to contact the Federal Railroad Administration whenever a tank car containing any flammable cryogenic liquid is not received by the consignee within 20 days from the date of shipment.

Section 174.435

This section contains the table of A_1 and A_2 values for radionuclides. The entry for "Sm–147" contains a printing error. In the seventh column for specific activity in TBq/g, the value is missing a "0" in the exponent. We are correcting "8.5×10^{-1}" to read "8.5×10^{-10}."

Part 175

Section 175.702

This section specifies the separation distance requirements for packages containing Class 7 (radioactive) materials in cargo aircraft. In the first column of the § 175.702(a)(2)(ii) table heading, a typographical error is corrected by revising "of predesignated area" to read "or predesignated area."

Part 178

Section 178.46

This section prescribes requirements for Specification 3AL seamless aluminum cylinders. Paragraph (k) addresses the duties of the inspector. In § 178.46(k)(2), the reference to performance or verification of ultrasonic inspection requirements is corrected from paragraph "(c)" to read "(b)(5)."

Section 178.70

This section specifies procedures for the approval of United Nations (UN) pressure receptacles. In paragraph (e)(5), we are revising the incorrect reference to "§ 178.72" to correctly read "§ 178.71."

Section 178.71

This section prescribes specifications for United Nations (UN) pressure receptacles. In paragraphs (g)(1), (g)(2) and (k)(1)(i), the reference to the tensile strength of "1100" has an unnecessary space and incorrectly reads "1 100." In this final rule, we are removing this additional space.

Section 178.75

This section prescribes specifications for Multiple Element Gas Containers (MEGCs). In paragraphs (d)(3)(i) and (d)(3)(ii), the reference to the tensile strength of "1100" has an unnecessary space and incorrectly reads "1 100." In this final rule, we are removing this additional space.

Section 178.503

This section prescribes requirements for the marking of non-bulk performance-oriented packagings. Paragraph (e)(1) was revised under a final rule published on February 2, 2010 [75 FR 5376] under Docket PHMSA–06–25736 (HM–231) and again under a final rule published on September 30, 2010 [75 FR 60333] under Docket PHMSA–06–25736 (HM–231) both entitled "Hazardous Materials: Miscellaneous Packaging Amendments." The revisions in these rules provided detailed requirements for the marking of the United Nations symbol on performance-oriented packaging. During the printing process, paragraph (d) was mistakenly printed with the subparagraphs intended for paragraph (e), and the introductory text for paragraph (e) was omitted altogether. The result was that this section skipped from paragraph (d) directly to paragraph (f). Under this final rule, we are revising the paragraphs with the correct numbering as intended and submitted to the **Federal Register**. Specifically, paragraph (d) is a stand-alone paragraph without the subparagraphs intended for paragraph (e). The paragraph (e) introductory text is reinserted, and the subparagraphs mistakenly printed under paragraph (d) are relocated to their correct position as subparagraphs to paragraph (e).

Section 178.601

This section prescribes the general requirements for the testing of non-bulk packagings and packages. The term "different packaging" is defined in paragraph (c)(4). Paragraph (c)(4)(v) of the definition excludes packagings which differ only in a lesser design height from the category of a "different packaging." For purposes of clarification, we are revising the paragraph to link the exclusion to the

authorized packaging variations that allow a packaging to be manufactured at a lesser design height by adding a reference to the variations in paragraph (g)(3) for single packaging, and to (g)(4) for combination packaging.

Part 179

Appendix B to Part 179

Appendix B to Part 179 prescribes procedures for simulated pool and torch-fire testing. Paragraphs 2.a.(1) and 3.a.(1) are revised by correcting an erroneous mathematical calculation. This correction should improve compliance by clarifying the conversion factors.

III. Regulatory Analyses and Notices

A. Statutory Authority

This final rule is published under authority of 49 U.S.C. 5103(b), which authorizes the Secretary of Transportation to prescribe regulations for the safe transportation, including security, of hazardous material in intrastate, interstate, and foreign commerce. The purpose of this final rule is to remove unnecessary cross references to the HMT, correct grammatical and typographical errors, and, in response to requests for clarification, improve the clarity of certain provisions in the HMT.

B. Executive Orders 12866 and 13563 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. This rule is not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). Additionally, E.O. 13563 supplements and reaffirms E.O. 12866, stressing that, to the extent permitted by law, an agency rulemaking action must be based on benefits that justify its costs, impose the least burden, consider cumulative burdens, maximize benefits, use performance objectives, and assess available alternatives. This final rule does not impose new or revised requirements for hazardous materials shippers or carriers; therefore, it is not necessary to prepare a regulatory impact analysis.

C. Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria in Executive Order 13132 ("Federalism"). This final rule does not adopt any regulation that: (1) Has substantial direct effects on the states, the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of government; or (2) imposes substantial direct compliance costs on state and local governments. PHMSA is not aware of any state, local, or Indian tribe requirements that would be preempted by correcting editorial errors and making minor regulatory changes. This final rule does not have sufficient federalism impacts to warrant the preparation of a federalism assessment.

D. Executive Order 13175

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 ("Consultation and Coordination with Indian Tribal Governments"). Because this final rule does not have tribal implications, does not impose substantial direct compliance costs on Indian tribal governments, and does not preempt tribal law, the funding and consultation requirements of Executive Order 13175 do not apply, and a tribal summary impact statement is not required.

E. Regulatory Flexibility Act, Executive Order 13272, and DOT Procedures and Policies

This final rule will not have a significant economic impact on a substantial number of small entities. This rule makes minor editorial changes which will not impose any new requirements on persons subject to the HMR; thus, there are no direct or indirect adverse economic impacts for small units of government, businesses, or other organizations.

F. Executive Order 13563 Improving Regulation and Regulatory Review

Executive Order 13563 is supplemental to and reaffirms the principles, structures, and definitions governing regulatory review that were established in Executive Order 12866 Regulatory Planning and Review of September 30, 1993. In addition, Executive Order 13563 specifically requires agencies to: (1) Involve the public in the regulatory process; (2) promote simplification and harmonization through interagency coordination; (3) identify and consider regulatory approaches that reduce burden and maintain flexibility; (4) ensure the objectivity of any scientific or technological information used to support regulatory action; consider how to best promote retrospective analysis to modify, streamline, expand, or repeal existing rules that are outmoded, ineffective, insufficient, or excessively burdensome.

A complete review of the existing HMR led to the identification of various minor errors in the HMR. The errors identified have no effect on the intent or meaning of the regulations. The correction of these errors will clarify current text while maintaining the intent of the regulations affected. This final rule is designed to address those errors by making non-substantive changes to the HMR such as editorial changes, spelling corrections, removal of transitional requirements that are no longer applicable and formatting modifications. This final rule corrects these errors but does not require the application of Executive Order 13563. The final rule does however clarify the regulatory text thus improving the regulations.

G. Unfunded Mandates Reform Act of 1995

This rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $141.3 million or more to either state, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objectives of the rule.

H. Paperwork Reduction Act

Theré are no new information collection requirements in this final rule.

I. Environmental Impact Analysis

The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321–4347), and implementing regulations by the Council on Environmental Quality (40 CFR part 1500) require Federal agencies to consider the consequences of Federal actions and prepare a detailed statement on actions that significantly affect the quality of the human environment.

The purpose of this rulemaking is to correct editorial errors, makes minor regulatory changes and, in response to requests for clarification, improves the clarity of certain provisions in the HMR. The intended effect of this rule is to enhance the accuracy and reduce misunderstandings of the regulations. The amendments contained in this rule are non-substantive changes and do not impose new requirements. Therefore, PHMSA has determined that the implementation of this final rule will not have any significant impact on the quality of the human environment.

J. Regulation Identifier Number (RIN)

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

K. Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, pages 19477–78), or at *http://www.regulations.gov*.

List of Subjects

49 CFR Part 107

Administrative practice and procedure, Hazardous materials transportation, Penalties, Reporting and recordkeeping requirements.

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

49 CFR Part 172

Education, Hazardous materials transportation, Hazardous waste, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 175

Hazardous materials transportation, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 178

Hazardous materials transportation, Incorporation by reference, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 179

Hazardous materials transportation, Railroad safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR chapter I is amended as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

■ 1. The authority citation for part 107 is revised to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; Pub. L. 101–410 section 4 (28 U.S.C. 2461 note), Pub. L. 104–121 sections 212–213; Pub. L. 104–134 section 31001; Pub. L. 112–141 section 33006; 49 CFR 1.45 and 1.53.

■ 2. In § 107.202, paragraph (a)(4) is revised to read as follows:

§ 107.202 Standards for determining preemption.

(a) * * *

(4) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material and other written hazardous materials transportation incident reporting involving State or local emergency responders in the initial response to the incident.

* * * * *

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

■ 3. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.45 and 1.53; Pub. L. 101–410 section 4 (28 U.S.C. 2461 note); Pub. L. 104–134 section 31001.

■ 4. In § 171.7, in the paragraph (a)(3) Table of material incorporated by reference, in the first column, for the entries "ISO 9809–1" and "ISO 9809–2," the source and name of material is revised to read as follows:

§ 171.7 Reference material.

(a) * * *

(3) * * *

Source and name of material	49 CFR reference
* * * * * * * *	
ISO 9809–1: Gas cylinders—Refillable seamless steel gas cylinders—Design, construction and testing—Part 1: Quenched and tempered steel cylinders with tensile strength less than 1100 MPa., First edition, June 1999, (E)	
ISO 9809–2: Gas cylinders—Refillable seamless steel gas cylinders—Design, construction and testing—Part 2: Quenched and tempered steel cylinders with tensile strength greater than or equal to 1100 MPa., First edition, June 2000, (E)	
* * * * * * * *	

* * * * *

■ 5. Section 171.8 is revised as follows:

■ a. The term "Containership" is removed and "Container ship" is added in its place; and

■ b. The definition of "Hazardous material" is revised.

The revisions read as follows:

§ 171.8 Definitions and abbreviations.

* * * * *

Container ship * * *

* * * * *

Hazardous material means a substance or material that the Secretary of Transportation has determined is capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and has designated as hazardous under section 5103 of Federal hazardous materials transportation law (49 U.S.C. 5103). The term includes hazardous substances, hazardous wastes, marine pollutants, elevated temperature materials, materials designated as hazardous in the Hazardous Materials Table (see 49 CFR 172.101), and materials that meet the defining criteria for hazard classes and divisions in part 173 of this subchapter.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, TRAINING REQUIREMENTS, AND SECURITY PLANS

■ 6. The authority citation for part 172 continues to read as follows:

Authority: 49 U.S.C. 5101–5128; 44701, 49 CFR 1.53.

■ 7. In § 172.101, paragraph (c)(10)(ii) is revised to read as follows:

§ 172.101 Purpose and use of hazardous materials table.

* * * * *

(c) * * *

(10) * * *

(ii) If one or more of the conditions in paragraphs (c)(10)(i)(A) through (F) of this section is satisfied then the proper shipping name selection process in (c)(12)(ii) must be used.

* * * * *

■ 8. In § 172.101, in the Hazardous Materials Table, the following entries are revised to read as follows:

§ 172.101 Purpose and use of hazardous materials table.

* * * * *

§ 172.101 HAZARDOUS MATERIALS TABLE

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification numbers	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***)			(9) Quantity limitations (see §§ 173.27 and 175.75)		(10) Vessel stowage	
							Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
+	Aminophenols (*o*-; *m*-; *p*-).												
G	Cyanide solutions, n.o.s..	6.1	UN1935	I	6.1	T14, TP2, TP13, TP27	None	201	243	1 L	30 L	B	40, 52
				II	6.1	IB2, T11, TP2, TP13, TP27.	153	202	243	5 L	60 L	A	40, 52
				III	6.1	IB3, T7, TP2, TP13, TP28.	153	203	241	60 L	220 L	A	40, 52

* * * * *

§ 172.102 [Amended]

■ 9. Amend § 172.102 as follows:
■ a. In paragraph (c)(3), Special Provisions B37, B50 and B60 are removed.
■ b. In paragraph (c)(5), Special Provision N72 is removed.

§ 172.204 [Amended]

■ 10. In § 172.204, in paragraph (a)(2), the wording "labelled/placarded" is revised to read "labeled/placarded".

■ 11. In § 172.514, paragraph (c)(4) is revised to read as follows:

§ 172.514 Bulk packagings.

* * * * *

(c) * * *

(4) *An IBC.* For an IBC labeled in accordance with subpart E of this part instead of placarded, the IBC may display the proper shipping name and UN identification number in accordance with the size requirements of § 172.302(b)(2) in place of the UN number on an orange panel, placard or white square-on-point; and

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

■ 12. The authority citation for part 173 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.45, 1.53.

■ 13. In § 173.12, paragraphs (b)(2)(ii)(B) and (C) are revised to read as follows:

§ 173.12 Exceptions for shipment of waste materials.

* * * * *

(b) * * *

(2) * * *

(ii) * * *

(B) At a minimum, a double-walled UN 4G fiberboard box made out of 500 pound burst-strength fiberboard fitted with a polyethylene liner at least 3 mils (0.003 inches) thick and when filled during testing to 95 percent capacity with a solid material, successfully passes the tests prescribed in §§ 178.603 (drop) and 178.606 (stacking), and is capable of passing the tests prescribed in § 178.608 (vibration) to at least the Packing Group II performance level for liquids or solids; or

(C) A UN 11G fiberboard intermediate bulk container (IBC) or a UN 11HH2 composite IBC, fitted with a polyethylene liner at least 6 mils (0.006 inches) thick, that successfully passes the tests prescribed in Subpart O of Part 178 and § 178.603 to at least the Packing Group II performance level for liquids or solids; a UN 11HH2 is composed of multiple layers of encapsulated corrugated fiberboard between inner and outer layers of woven coated polypropylene.

* * * * *

■ 14. In § 173.35, paragraphs (g) and (h) are revised to read as follows:

§ 173.35 Hazardous materials in IBCs.

* * * * *

(g) Each IBC used for transportation of solids which may become liquid at temperatures likely to be encountered during transportation must also be capable of containing the substance in the liquid state.

(h) Liquid hazardous materials may only be offered for transportation in a metal, rigid plastic, or composite IBC that is appropriately resistant to an increase in internal pressure likely to develop during transportation.

(1) A rigid plastic or composite IBC may only be filled with a liquid having a vapor pressure less than or equal to the greater of the following two values: The first value is determined from any of the methods in paragraphs (h)(1)(i), (ii) or (iii) of this section. The second value is determined by the method in paragraph (h)(1)(iv) of this section.

(i) The gauge pressure (pressure in the IBC above ambient atmospheric pressure) measured in the IBC at 55 °C (131 °F). This gauge pressure must not exceed two-thirds of the marked test pressure and must be determined after the IBC was filled and closed at 15 °C (60 °F) to less than or equal to 98 percent of its capacity.

(ii) The absolute pressure (vapor pressure of the hazardous material plus atmospheric pressure) in the IBC at 50 °C (122 °F). This absolute pressure must not exceed four-sevenths of the sum of the marked test pressure and 100 kPa (14.5 psia).

(iii) The absolute pressure (vapor pressure of the hazardous material plus atmospheric pressure) in the IBC at 55 °C (131 °F). This absolute pressure must not exceed two-thirds of the sum of the marked test pressure and 100 kPa (14.5 psia).

(iv) Twice the static pressure of the substance, measured at the bottom of the IBC. This value must not be less than twice the static pressure of water.

(2) Liquids having a vapor pressure greater than 110 kPa (16 psig) at 50 °C (122 °F) or 130 kPa (18.9 psig) at 55 °C (131 °F) may not be transported in metal IBCs.

* * * * *

■ 15. In § 173.134, in the last paragraph, the second alphanumerical number (c) for transitional provisions, is renumbered to (e) and revised to read as follows:

§ 173.134 Class 6, Division 6.2—Definitions and exceptions.

* * * * *

(e) *Transitional provisions.* The authorization for continued use of the criteria for packing group assignments in effect on December 31, 2006 ended on January 1, 2012.

■ 16. In § 173.159a, paragraph (c) introductory text is revised to read as follows:

§ 173.159a Exceptions for non-spillable batteries.

* * * * *

(c) Non-spillable batteries, as determined in accordance with § 173.159(f) of this subpart, are excepted from the packaging requirements of § 173.159 under the following conditions:

* * * * *

■ 17. In § 173.319, paragraph (a)(3) is revised to read as follows:

§ 173.319 Cryogenic liquids in tank cars.

(a) * * *

(3) The shipper must notify the Federal Railroad Administration whenever a tank car containing any flammable cryogenic liquid is not received by the consignee within 20 days from the date of shipment. Notification to the Federal Railroad Administration may be made by email to *HMassist@dot.gov* or telephone call to (202) 493–6245.

* * * * *

■ 18. In § 173.435, in the Table of A_1 and A_2 values for radionuclides, the entry "Sm-147" is revised to read as follows:

§ 173.435 Table of A_1 and A_2 values for radionuclides.

* * * * *

Symbol of radionuclide	Element and atomic number	A_1(TBq)	A_1(Ci)[b]	A_2(TBq)	A_2(Ci)[b]	Specific activity (TBq/g)	Specific activity (Ci/g)
* * *	*	*	*	*	*	*	*
Sm-147		Unlimited	Unlimited	Unlimited	Unlimited	8.5×10^{-10}	2.3×10^{-8}
* * *	*	*	*	*	*	*	*

* * * * *

PART 175—CARRIAGE BY AIRCRAFT

■ 19. The authority citation for part 175 continues to read as follows:

Authority: 49 U.S.C. 4101–51128; 44701; 49 CFR 1.45 and 1.53.

■ 20. In § 175.702, in paragraph (a)(2)(ii), the table heading is revised to read as follows:

§ 175.702 Separation distance requirements for packages containing Class 7 (radioactive) materials in cargo aircraft.

* * * * *

(a) * * *

(2) * * *

(ii) * * *

Transport index or sum of transport indexes of all packages in the aircraft or predesignated area	Minimum separation distances: Centimeters	Minimum separation distances: Inches
* * *	*	*

PART 178—SPECIFICATIONS FOR PACKAGINGS

■ 21. The authority citation for part 178 continues to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.53.

■ 22. In § 178.46, paragraph (k)(2) is revised to read as follows:

§ 178.46 Specification 3AL seamless aluminum cylinders.

* * * * *

(k) * * *

(2) The inspector must verify ultrasonic inspection of all material by inspection or by obtaining the material producer's certificate of ultrasonic inspection. Ultrasonic inspection must be performed or verified as having been performed in accordance with paragraph (b)(5) of this section.

* * * * *

§ 178.70 [Amended]

■ 23. In § 178.70, in paragraph (e)(5), the reference "§ 178.72" is removed and the reference "§ 178.71" is added in its place.

■ 24. In § 178.71, paragraphs (g)(1), (g)(2) and (k)(1)(i) are revised to read as follows:

§ 178.71 Specifications for UN pressure receptacles.

* * * * *

(g) * * *

(1) ISO 9809–1: Gas cylinders—Refillable seamless steel gas cylinders—Design, construction and testing—Part 1: Quenched and tempered steel cylinders with tensile strength less than 1100 MPa. (IBR, see § 171.7 of this subchapter).

(2) ISO 9809–2: Gas cylinders—Refillable seamless steel gas cylinders—Design, construction and testing—Part 2: Quenched and tempered steel cylinders with tensile strength greater than or equal to 1100 MPa. (IBR, see § 171.7 of this subchapter).

* * * * *

(k) * * *

(1) * * *

(i) ISO 9809–1: Gas cylinders—Refillable seamless steel gas cylinders—Design, construction and testing—Part 1: Quenched and tempered steel cylinders with tensile strength less than 1100 MPa.

* * * * *

■ 25. In § 178.75, paragraphs (d)(3)(i) and (d)(3)(ii) are revised to read as follows:

§ 178.75 Specifications for MEGCs.

* * * * *

(d) * * *

(3) * * *

(i) ISO 9809–1: Gas cylinders—Refillable seamless steel gas cylinders—Design, construction and testing—Part 1: Quenched and tempered steel cylinders with tensile strength less than 1100 MPa. (IBR, see § 171.7 of this subchapter);

(ii) ISO 9809–2: Gas cylinders—Refillable seamless steel gas cylinders—Design, construction and testing—Part 2: Quenched and tempered steel cylinders with tensile strength greater than or equal to 1100 MPa. (IBR, see § 171.7 of this subchapter);

* * * * *

■ 26. In § 178.503, paragraphs (d) introductory text and (e) are revised to read as follows:

§ 178.503 Marking of packagings.

* * * * *

(d) *Marking of remanufactured packagings.* For remanufactured metal drums, if there is no change to the packaging type and no replacement or removal of integral structural components, the required markings need not be permanent (e.g., embossed). Every other remanufactured drum must bear the marks required in paragraphs (a)(1) through (a)(6) of this section in a permanent form (e.g., embossed) on the top head or side. If the metal thickness marking required in paragraph (a)(9)(i) of this section does not appear on the bottom of the drum, or if it is no longer valid, the remanufacturer also must mark this information in permanent form.

(e) *The following are examples of symbols and required markings.* (1)(i) The United Nations symbol is:

(ii) The circle that surrounds the letters "u" and "n" may have small breaks provided the following provisions are met:

(A) The total gap space does not exceed 15 percent of the circumference of the circle;

(B) There are no more than four gaps in the circle;

C) The spacing between gaps is separated by no less than 20 percent of the circumference of the circle (72 degrees); and

D) The letters "u" and "n" appear exactly as depicted in § 178.503(e)(1)(i) with no gaps.

(2) Examples of markings for a new packaging are as follows:

(i) For a fiberboard box designed to contain an inner packaging:

(as in § 178.503 (a)(1) through (9) of this subpart).

(ii) For a steel drum designed to contain liquids:

(as in § 178.503 (a)(1) through (10) of this subpart).

(iii) For a steel drum to transport solids or inner packagings:

(as in § 178.503 (a)(1) through (8) of this subpart).

(3) Examples of markings for reconditioned packagings are as follows:

(as in § 178.503(c)(1)).

* * * * *

■ 27. In § 178.601, paragraph (c)(4)(v) is revised to read as follows:

§ 178.601 General requirements.

* * * * *

(c) * * *

(4) * * *

(v) A packaging identified in paragraph (g)(3) or (g)(4) of this section,

which differs from the design type only in a lesser design height; or

* * * * *

PART 179—SPECIFICATIONS FOR TANK CARS

■ 28. The authority citation for part 179 is revised to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.53.

■ 29. In Appendix B to Part 179, paragraphs 2.a.(1) and 3.a.(1) are revised to read as follows:

Appendix B to Part 179—Procedures for Simulated Pool and Torch-Fire Testing.

* * * * *

2. *Simulated pool fire test.*

a. A pool-fire environment must be simulated in the following manner:

(1) The source of the simulated pool fire must be hydrocarbon fuel with a flame temperature of 871 °C plus or minus 55.6 °C (1600 °F plus-or-minus 100 °F) throughout the duration of the test.

* * * * *

3. *Simulated torch fire test.*

a. A torch-fire environment must be simulated in the following manner:

(1) The source of the simulated torch must be a hydrocarbon fuel with a flame temperature of 1,204 °C plus-or-minus 55.6 °C (2,200 °F plus or minus 100 °F), throughout the duration of the test. Furthermore, torch velocities must be 64.4 km/h ±16 km/h (40 mph ±10 mph) throughout the duration of the test.

* * * * *

Issued in Washington, DC, on September 27, 2012 under authority delegated in 49 CFR part 1.

Timothy P. Butters,

Deputy Administrator, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2012–24263 Filed 10–4–12; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 0907271173–0629–03]

RIN 0648–XC152

2012–2013 Accountability Measure and Closure for Commercial Black Sea Bass in the South Atlantic

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements an accountability measure (AM) for the commercial sector of black sea bass in the exclusive economic zone (EEZ) of the South Atlantic through this temporary final rule. NMFS has determined that the annual catch limit (ACL) (equal to the commercial quota) for black sea bass will have been reached by October 8, 2012. Therefore, NMFS closes the commercial sector for black sea bass in the EEZ of the South Atlantic. This closure is necessary to protect the black sea bass resource.

DATES: Closure is effective 12:01 a.m., local time, October 8, 2012, through 12:01 a.m., local time, on June 1, 2013.

FOR FURTHER INFORMATION CONTACT: Catherine Hayslip, telephone 727–824–5305, email *Catherine.Hayslip@noaa.gov.*

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), and black sea bass is a species contained in that FMP. The FMP was prepared by the South Atlantic Fishery Management Council (Council) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. NMFS published a temporary rule to delay the start of the 2012–2013 fishing season for the commercial sector of black sea bass from June 1, 2012 to July 1, 2012 (77 FR 28305, May 14, 2012). The commercial ACL (commercial quota) for black sea bass in the South Atlantic is 309,000 lb (140,160 kg), gutted weight, for the current fishing year (July 1, 2012, through May 31, 2013) as specified in 50 CFR 622.42(e)(5).

Background

Black sea bass are managed throughout their range. In the South Atlantic EEZ, black sea bass are managed under the FMP by the Council from 35°15.19′ N. lat., the latitude of Cape Hatteras Light, North Carolina, south to the boundary between the South Atlantic and Gulf of Mexico (Gulf) Councils, off of Key West, Florida. The boundary between the South Atlantic and Gulf Councils coincides with the line of demarcation between the Atlantic Ocean and the Gulf, which begins at the intersection of the outer boundary of the EEZ, as specified in the Magnuson-Stevens Act, and 83°00′ W. long., proceeds northward along that meridian to 24°35′ N. lat., (near the Dry Tortugas Islands), thence eastward along that parallel, through Rebecca Shoal and the Quicksand Shoal, to the Marquesas Keys, and then through the Florida Keys to the mainland at the eastern end of Florida Bay, the line so running that the narrow waters within the Dry Tortugas Islands, the Marquesas Keys and the Florida Keys, and between the Florida Keys and the mainland, are within the Gulf. From Cape Hatteras Light, North Carolina, through Maine, black sea bass are managed jointly by the Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission. Therefore, the closure provisions contained in this notice are applicable to those vessels harvesting or possessing black sea bass from Cape Hatteras Light, North Carolina, through to the boundary between the South Atlantic and Gulf Councils (off of Key West, Florida), as described above.

The AM at 50 CFR 622.49(b)(5)(i) requires NMFS to close the commercial sector for black sea bass when the ACL (quota) is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. Also, under 50 CFR 622.43(a), NMFS is required to close the commercial sector for a species or species group when the quota for that species or species group is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. Based on the best scientific information available, NMFS has determined that the available commercial ACL (commercial quota) of 309,000 lb (140,160 kg), gutted weight, for black sea bass will be reached on or before October 8, 2012. Accordingly, NMFS is implementing an AM to close the commercial sector for black sea bass in the South Atlantic EEZ at 12:01 a.m., local time, on October 8, 2012 from 35°15.19′ N. lat., the latitude of Cape Hatteras Light, North Carolina, south to the boundary between the South Atlantic and Gulf Councils, as previously described in this temporary rule. The commercial sector for black sea bass will remain closed until 12:01 a.m., local time, on June 1, 2013. The operator of a vessel with a valid commercial vessel permit for snapper-grouper having black sea bass onboard must have landed and bartered, traded, or sold such black sea bass prior to 12:01 a.m., local time, October 8, 2012.

During the closure, the bag limit and possession limits specified in 50 CFR 622.39(d)(1)(vii) and (d)(2), respectively, apply to all harvest or possession of black sea bass in or from the South Atlantic EEZ, and the sale or purchase of black sea bass taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to sale or

purchase of black sea bass that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, October 8, 2012, and held in cold storage by a dealer or processor. For a person on board a vessel for which a Federal commercial or charter vessel/headboat permit for the South Atlantic snapper-grouper fishery has been issued, the sale and purchase provisions of the commercial closure for black sea bass would apply regardless of whether the fish were harvested in state or Federal waters, as specified in 50 CFR 622.43(a)(5)(ii).

Classification

This action responds to the best scientific information available. The Assistant Administrator for Fisheries, NOAA (AA), finds that the need to immediately implement this action to close the commercial sector to the harvest of black sea bass constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures would be unnecessary and contrary to the public interest. Such procedures would be unnecessary because the regulations have already been subject to notice and comment, and all that remains is to notify the public of the closure.

Additionally, allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action to protect the black sea bass stock because it is subject to overfishing and the capacity of the fishing fleet allows for rapid harvest of the commercial ACL (commercial quota). Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established commercial ACL (commercial quota), which would impede the rebuilding of the stock by the end of the rebuilding period set at 2016.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in effectiveness of the action under 5 U.S.C. 553(d)(3).

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 2, 2012.

Lindsay Fullenkamp,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2012–24651 Filed 10–2–12; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 001005281–0369–02]

RIN 0648–XC273

Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; 2012–2013 Accountability Measure and Closure for Gulf King Mackerel in Northern Florida West Coast Subzone

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements an accountability measure (AM) for commercial king mackerel in the northern Florida west coast subzone of the eastern zone of the Gulf of Mexico (Gulf) exclusive economic zone (EEZ) through this temporary final rule. NMFS has determined that the commercial annual catch limit (ACL) (equal to the commercial quota) for king mackerel in the northern Florida west coast subzone of the Gulf EEZ will have been reached by October 5, 2012. Therefore, NMFS closes the northern Florida west coast subzone to commercial king mackerel fishing in the EEZ. This closure is necessary to protect the Gulf king mackerel resource.

DATES: The closure is effective noon, local time, October 5, 2012, until 12:01 a.m., local time, on July 1, 2013.

FOR FURTHER INFORMATION CONTACT: Steve Branstetter, 727–824–5305, email: *Steve.Branstetter@noaa.gov.*

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, and cobia) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

On April 27, 2000, NMFS implemented the final rule (65 FR 16336, March 28, 2000) that divided the Gulf migratory group king mackerel's Florida west coast subzone of the Gulf eastern zone into northern and southern subzones, and established their separate quotas. The Florida west coast subzone is that part of the eastern zone located south and west of 25°20.4′ N. lat. (a line directly east from the Miami-Dade/Monroe County, FL boundary) along the west coast of Florida to 87°31.1′ W. long. (a line directly south from the Alabama/Florida boundary). The Florida west coast subzone is further divided into northern and southern subzones. The northern subzone is that part of the Florida west coast subzone that is between 26°19.8′ N. lat. (a line directly west from the Lee/Collier County, FL boundary) and 87°31.1′ W. long. (a line directly south from the Alabama/Florida boundary).

The commercial ACL (commercial quota) for the Gulf migratory group king mackerel in the northern Florida west coast subzone is 197,064 lb (89,397 kg) (50 CFR 622.42(c)(1)(i)(A)(*2*)(*ii*)), for the current fishing year, July 1, 2012, through June 30, 2013.

Because 75 percent of the northern Florida west coast subzone's quota had been harvested, NMFS published a temporary rule on August 30, 2012, to reduce the trip limit for the commercial sector of king mackerel in the northern Florida west coast subzone to 500 lb (227 kg) of king mackerel per day in or from the EEZ (77 FR 52623).

Regulations at 50 CFR 622.49(h)(1)(i) and 50 CFR 622.43(a)(3) require NMFS to close the commercial sector for Gulf migratory group king mackerel in the northern Florida west coast subzone when the ACL (quota) is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. Based on the best scientific information available, NMFS has determined the commercial ACL (commercial quota) of 197,064 lb (89,397 kg) for Gulf migratory group king mackerel in the northern Florida west coast subzone will be reached by October 5, 2012. Accordingly, the northern Florida west coast subzone is closed effective noon, local time, October 5, 2012, through June 30, 2013, the end of the fishing year, to commercial fishing for Gulf migratory group king mackerel.

Except for a person aboard a charter vessel or headboat, during the closure, no person aboard a vessel for which a commercial permit for king mackerel has been issued may fish for or retain Gulf group king mackerel in the EEZ in the closed zones or subzones. A person aboard a vessel that has a valid charter vessel/headboat permit for coastal migratory pelagic fish may continue to retain king mackerel in or from the closed zones or subzones under the bag and possession limits set forth in 50 CFR 622.39(c)(1)(ii) and (c)(2), provided

the vessel is operating as a charter vessel or headboat. A charter vessel or headboat that also has a commercial king mackerel permit is considered to be operating as a charter vessel or headboat when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

During the closure, king mackerel from the closed zone, including those harvested under the bag and possession limits, may not be purchased or sold. This prohibition does not apply to trade in king mackerel from the closed zones or subzones that were harvested, landed ashore, and sold prior to the closure and were held in cold storage by a dealer or processor.

Classification

This action responds to the best scientific information available. The Assistant Administrator for Fisheries, NOAA (AA), finds that the need to immediately implement this action to close the Florida west coast subzone to commercial king mackerel fishing constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) because prior notice and opportunity for public comment is unnecessary and contrary to the public interest. Prior notice and public comment is unnecessary because the rule implementing the commercial ACL (commercial quota) and the associated requirement for closure of the commercial harvest when the ACL (quota) is reached or projected to be reached has already been subject to notice and comment, and all that remains is to notify the public of the closure.

Additionally, allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action to protect the king mackerel resource because the capacity of the fishing fleet allows for rapid harvest of the quota. Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 2, 2012.

Lindsay Fullenkamp,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2012–24653 Filed 10–2–12; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 77, No. 194
Friday, October 5, 2012

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.

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1238

RIN 2590–AA47

Stress Testing of Regulated Entities

AGENCY: Federal Housing Finance Agency.

ACTION: Notice of proposed rulemaking; request for comment.

SUMMARY: This proposed rule would implement section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) which requires certain financial companies with total consolidated assets of more than $10 billion, and which are regulated by a primary federal financial regulatory agency, to conduct annual stress tests to determine whether the companies have the capital necessary to absorb losses as a result of adverse economic conditions. The Federal Housing Finance Agency (FHFA) is the primary federal financial regulator of the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), and the Federal Home Loan Banks (Banks) (Fannie Mae and Freddie Mac collectively, the Enterprises: the Enterprises and the Banks collectively, regulated entities). While each of the regulated entities currently has total consolidated assets of more than $10 billion, FHFA proposes expressly to retain to the Director the discretion to require any regulated entity that falls below the $10 billion threshold to conduct annually the stress test. FHFA's proposal reflects its supervisory judgment and is grounded in its regulatory and supervisory authority and obligation to ensure the safety and soundness of the regulated entities under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended (12 U.S.C. 4501 *et seq.*) (Safety and Soundness Act) and the Federal Home Loan Bank Act, as amended (12 U.S.C. 1421 through 1449) (Bank Act). In accordance with section 165(i)(2)(C) of the Dodd-Frank Act, FHFA has coordinated with the Federal Reserve Board of Governors (Board), and the Federal Insurance Office.

DATES: Comments on the proposed rule must be received on or before November 5, 2012.

ADDRESSES: You may submit your comments, identified by regulatory identification number (RIN) 2590–AA47, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by email to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by the agency. Please include "RIN 2590–AA47" in the subject line of the message.
- *Email:* Comments to Alfred M. Pollard, General Counsel, may be sent by email to *RegComments@fhfa.gov.* Please include "RIN 2590–AA47" in the subject line of the message.
- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590–AA47, Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW., Washington, DC 20024.
- *Hand Delivered/Courier:* The hand delivery address is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590–AA47, Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW., Washington, DC 20024. The package should be logged at the Guard's Desk, First Floor, on business days between 9 a.m. to 5 p.m.

See **SUPPLEMENTARY INFORMATION** for additional information on submission and posting of comments.

FOR FURTHER INFORMATION CONTACT: Naa Awaa Tagoe, Senior Associate Director, Office of Financial Analysis, Modeling and Simulations, (202) 649–3140, *naaawaa.tagoe@fhfa.gov;* Fred Graham, Associate Director, Risk Modeling and Market Analysis, (202) 649–3500, *fred.graham@fhfa.gov;* or Mark D. Laponsky, Deputy General Counsel, Office of General Counsel, (202) 649–3054 (these are not toll-free numbers), *mark.laponsky@fhfa.gov.* The telephone number for the Telecommunications Device for the Hearing Impaired is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Comments

FHFA invites comment on all aspects of the proposed rule and will take all comments into consideration before issuing a final rule. Copies of all comments received will be posted without change on the FHFA Web site at *http://www.fhfa.gov,* and will include any personal information you provide, such as your name, address, and telephone number. In addition, copies of all comments received will be available for examination by the public on business days between the hours of 10 a.m. and 3 p.m. at the Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW., Washington, DC 20024. To make an appointment to inspect comments, please call the Office of General Counsel at (202) 649–3804.

II. Background

Establishment of FHFA

FHFA is an independent agency of the Federal government and was established by the Housing and Economic Recovery Act of 2008 (HERA), Public Law 110–289, 122 Stat. 2654, to regulate and oversee the regulated entities.[1] HERA amended the Safety and Soundness Act and the Bank Act to enhance the authorities and responsibilities of the new agency. FHFA's regulatory mission is to ensure, among other things, that each of the regulated entities "operates in safe and sound manner" and that their "operations and activities * * * foster liquid, efficient, competitive, and resilient national housing finance markets." (12 U.S.C. 4513(a)(1)(B)).

III. Analysis of Proposed Rule

The purpose of this proposed rule is to ensure stronger regulation of the regulated entities by providing FHFA with additional, forward-looking information that will help it to assess capital adequacy under various scenarios at the regulated entities. Section 165(i)(2)(A) of the Dodd-Frank Act states in part:

A nonbank financial company supervised by the Board of Governors and a bank holding company described in subsection (a)

[1] *See* Division A, titled the "Federal Housing Finance Regulatory Reform Act of 2008," Title I, section 1101 of HERA.

shall conduct semi-annual stress tests. *All other financial companies that have total consolidated assets of more than $10,000,000,000 and are regulated by a primary Federal financial regulatory agency shall conduct annual stress tests * * **
(emphasis added.)

The annual stress test requirement contained in section 165(i)(2) of the Dodd-Frank Act applies to large financial companies that meet the total consolidated assets threshold, and that are regulated by a primary federal financial regulator. Each of FHFA's regulated entities currently has total consolidated assets of more than $10 billion and is currently subject to the annual stress test requirement. FHFA proposes expressly to retain to the Director the discretion to require any regulated entity to conduct the stress test annually if its total consolidated assets fall below $10 billion in a particular year. FHFA's proposal reflects its preliminary supervisory judgment that under some unforeseen circumstances prudential supervision of a regulated entity that has dropped below the $10 billion total consolidated asset threshold of the Dodd-Frank Act, may be enhanced by application of the stress-test regime.

A. Authority and Purpose—Proposed § 1238.1

Section 1238.1 of the proposed rule describes the authority and purpose of this rulemaking. As the primary federal financial regulator of the regulated entities, FHFA issues this proposed rule to implement the Dodd-Frank Act's annual stress test requirement for Fannie Mae, Freddie Mac, and each of the Federal Home Loan Banks.

Section 165(i)(2)(C) of the Dodd-Frank Act (12 U.S.C. 5365(i)(2)(C)) requires FHFA, as a primary federal financial regulatory agency, in coordination with the Board and the Federal Insurance Office, to issue consistent and comparable regulations for annual stress testing. This requirement extends, expressly, to: (i) The definition of "stress test"; (ii) the establishment of methodologies for the conduct of stress tests (which must provide for at least three different sets of conditions, including baseline, adverse, and severely adverse); (iii) establishing the form and content of the report that the regulated entities are required to submit to FHFA and to the Board; and (iv) requiring the regulated entities to publish a summary of the results of the annual stress tests. FHFA has consulted with the Board and the Federal Insurance Office in developing these proposed regulations.

FHFA's authority to exercise its discretion to apply the proposed stress test requirements to any regulated entity that falls below the $10 billion threshold of the Dodd-Frank Act rests in its general supervisory authorities conferred by the Safety and Soundness Act and the Bank Act.[2] FHFA intends that the company-run stress test regulations will be codified at 12 CFR part 1238, and expects that the stress test requirements will apply annually to each of the regulated entities that has total consolidated assets of at least $10 billion.

If a regulated entity is designated by the Financial Stability Oversight Council for supervision by the Board in accordance with section 113 of the Dodd-Frank Act, it would also become subject to supervisory stress tests overseen by the Board. The regulated entity would also become subject to enhanced prudential standards, and early remediation requirements, as required by sections 165 and 166 of the Dodd-Frank Act. However, some of these enhanced prudential standards and early remediation requirements may need to be tailored, by regulation or order, to address the newly covered entity's business model, capital requirements, liquidity needs, concentration risks, and other considerations.

B. Definitions—Proposed § 1238.2

Section 1238.2 of the proposed rule defines a number of terms used in section 165(i)(2) of the Dodd-Frank Act, including a definition of the statutory term "stress test," as required by section 165(i)(2)(C)(i). In coordination with the Board, FHFA proposes to define "stress test" to mean "a process to assess the potential impact on the consolidated earnings and capital of a regulated entity, of different economic and financial conditions over a set planning horizon ("scenarios"), taking into account the current condition of the regulated entity and the regulated entity's risks, exposures, strategies and activities." FHFA specifically requests public comments on this definition of "stress test." This proposed rule also defines the following additional terms: "planning horizon," "scenarios," and a number of other terms.

C. Annual Stress Test—Proposed § 1238.3

Section 165(i)(2) of the Dodd-Frank Act directs each financial company with total consolidated assets of more than $10 billion, and that is regulated by a primary federal financial regulatory agency, to complete an annual stress test. The proposed rule would require a regulated entity to use its data as of September 30 of that calendar year, except for data related to the regulated entity's trading and counterparty exposures for which FHFA will communicate the required as of date in the fourth quarter of each year. The annual stress test would require the regulated entities to assess the potential impact of different scenarios on their consolidated earnings and capital, and other related factors, over a nine-quarter forward-looking planning horizon taking into account all relevant exposures and activities.

Section 1238.3(b) also provides that, in conducting the annual stress test, the regulated entities must use scenarios that reflect a minimum of three sets of economic and financial conditions, including a baseline, adverse, and severely adverse scenario. FHFA will define scenarios for the regulated entities, bearing in mind the key risk exposures at each regulated entity.

D. Methodologies and Practices—Proposed § 1238.4

Section 1238.4 provides that, in conducting a stress test, each regulated entity is required to calculate how certain financial values and ratios are affected during each of the nine quarters of the stress test planning horizon, for each scenario. The financial values and ratios to be considered include: (1) Potential losses, pre-provision net revenues, allowance for loan losses, and future pro forma capital positions over the planning horizon; (2) capital levels and capital ratios, including regulatory and any other capital ratios, specified by FHFA; and (3) Market Value of Equity.

Section 1238.4(c) provides that, if FHFA determines that the stress test methodologies and practices of a regulated entity are deficient, it can require the regulated entity to use additional analytical techniques and exercises to fulfill the stress test requirement. The proposed rule provides that FHFA will issue guidance annually to describe the scenarios and methodologies to be used in conducting the annual stress test.

Section 1238.4(d)(1) requires each regulated entity to establish and maintain a system of controls, oversight, and documentation to ensure that the stress testing process is effective to meet the requirements of part 1238. Section 1238.4(d)(2) of the proposed rule would require each regulated entity's board of directors and senior management to approve, and annually review, such controls, oversight, and documentation,

[2] 12 U.S.C. 4513, 4526, 4612, and 1426.

including policies and procedures, to ensure compliance with this part.

E. Required Report to FHFA and the Board of Stress Test Results and Related Information—Proposed § 1238.5

Section 1238.5 would require each regulated entity, on or before January 5 of each year, to report the results of the stress test to FHFA and to the Board. This section provides that each regulated entity must file a report in the manner and form established by FHFA. FHFA expects to issue an order at the time the final stress test regulation is published that will contain the specific contents of the annual report. Section 1238.5 of the proposed rule also specifies the confidentiality requirements that govern the release of information contained in the annual report and other information required to be submitted that is related to the annual report. FHFA currently is considering that the annual report should include at least the following elements, on which comment is solicited:

Qualitative disclosures—

- A description of scenarios used and risks covered;
- A description of data, methods and key assumptions used, and internal capital goals and targets; and
- A discussion of changes in the results from one reporting period to the next that clearly identifies primary drivers of the changes.

Quantitative disclosures—for each quarter of the planning horizon—

- Income statement (reflecting a comparable level of detail to SEC filings);
- Balance sheet (reflecting a comparable level of detail to SEC filings);
- Capital roll-forward (*i.e.*, For each quarter of the planning horizon, the amount of capital at the start of the quarter, changes to capital during the quarter, and the amount of capital at the end of the quarter);
- Credit summary reflecting—Charge-offs, foreclosed property expenses, credit losses, payments from private mortgage insurers (disaggregated by private mortgage insurer), Credit-related expenses, defaults, REO acquisitions, number of seriously delinquent loans, aggregate unpaid principal balance of seriously delinquent loans, seriously delinquent rate, loan modifications, and ending loan loss reserve balance;
- Market Value of Equity (as estimated by the regulated entity using observed market prices, market price estimates and model-based estimates, as appropriate).

For the baseline scenario—

- The sensitivity of the book value of capital and market value of equity to parallel interest rate shocks (*e.g.*, plus and minus 50 basis points and 100 basis points) at the "as of" date of the stress test;
- The sensitivity of the book value of capital and market value of equity to other factors at the "as of" date of the stress test.

F. Post-Assessment Actions by Regulated Entities—Proposed § 1238.6

Section 1238.6 would require that each regulated entity take the results of the annual stress test into account in making any changes, as appropriate, to its capital structure (including the level and composition of capital); its exposures, concentrations, and risk positions; any plans for recovery and resolution; and to improve overall risk management. If a regulated entity is under FHFA conservatorship, any post-assessment actions would require FHFA's prior approval.

G. Publication of Results by Regulated Entities—Proposed § 1238.7

The proposed rule would require, at § 1238.7, that each regulated entity publish annually, a summary of the results of its company-run stress test within 90 days of submitting its stress test report to FHFA and to the Board. The section also identifies the minimum elements of the public disclosure.

H. Additional Implementing Action—Proposed § 1238.8

Section 1238.8 provides that the Director may require a regulated entity with total consolidated assets below $10 billion to conduct stress testing under this part; and, from time to time, issue such guidance and orders as may be necessary to facilitate implementation of this part.

IV. Coordination With the Board and the Federal Insurance Office

In accordance with section 165(i)(2)(C), FHFA has coordinated with both the Board and the Federal Insurance Office. The Board issued its notice of proposed rulemaking on January 5, 2012 [3]; the Federal Deposit Insurance Corporation (FDIC) issued its notice of proposed rulemaking on January 23, 2012 [4]; the Office of the Comptroller of the Currency (OCC) issued its notice of proposed rulemaking on January 24, 2012.[5] Although FHFA's proposed rule is not identical to those of the Board, the FDIC, and the OCC, it is consistent and comparable with them. FHFA sought and considered input from the Board and the Federal Insurance Office while drafting this proposed rule.

V. Differences Between Banks and Enterprises

Section 1313 of the Safety and Soundness Act requires the Director to consider the differences between the Banks and the Enterprises whenever promulgating regulations that affect the Banks. In developing this proposed rule, FHFA considered the differences between the Banks and the Enterprises, but also adhered to the statutory mandate that the regulation be "consistent and comparable" with the regulations of the other agencies. In implementing the regulation, FHFA will define scenarios for the regulated entities, bearing in mind the key risk exposures at each regulated entity.

VI. Regulatory Impact

Paperwork Reduction Act

The proposed rule does not contain any collections of information pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Therefore, FHFA has not submitted any information to the Office of Management and Budget for review.

Regulatory Flexibility Act

The proposed rule applies only to the regulated entities, which do not come within the meaning of small entities as defined in the Regulatory Flexibility Act (*see* 5 U.S.C. 601(6)). Therefore, in accordance with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), FHFA certifies that this proposed rule, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 12 CFR Part 1238

Administrative practice and procedure, Capital, Federal Home Loan Banks, Government-sponsored enterprises, Reporting and recordkeeping requirements, Stress test.

For the reasons stated in the preamble, the Federal Housing Finance Agency proposes to add part 1238 to subchapter B, to Title 12, Chapter XII of the Code of Federal Regulations to read as follows:

PART 1238—STRESS TESTING OF REGULATED ENTITIES

Sec.

[3] *See* 77 FR 594, 625–633, "Enhanced Prudential Standards and Early Remediation Requirements for Covered Companies."

[4] 77 FR 3166, "Annual Stress Test."

[5] 77 FR 3408, "Annual Stress Test."

Authority: 12 U.S.C. 1426; 4513; 4526; 4612; 5365(i).

§ 1238.1 Authority and purpose.

(a) *Authority.* This part is issued by the Federal Housing Finance Agency (FHFA) under section 165(i) of Title I of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) (Pub. L. 111–203, 124 Stat. 1376, 1423–32 (2010), 12 U.S.C. 5365(i)), the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended (12 U.S.C. 4513, 4526, 4612), and the Federal Home Loan Bank Act, as amended (12 U.S.C. 1426).

(b) *Purpose.* This part implements section 165(i)(2) of the Dodd-Frank Act, which requires all large financial companies that have total consolidated assets of more than $10 billion, and are regulated by a primary federal financial regulatory agency, to conduct annual stress tests. To ensure the safety and soundness of the regulated entities, the Director reserves and retains the discretion to apply this part to any regulated entity with less than $10 billion total consolidated assets in a particular year.

This part establishes requirements that apply to each regulated entity's performance of annual stress tests. The purpose of the annual stress test is to provide the regulated entities, FHFA and the Federal Reserve Board of Governors (Board) with additional, forward-looking information that will help them to assess capital adequacy at the regulated entities under various scenarios; to review the regulated entities' stress test results; and to increase public disclosure of the regulated entities' capital condition by requiring broad dissemination of the stress test scenarios and results.

§ 1238.2 Definitions.

For purposes of this part, the following definitions apply:

Board means the Board of Governors of the Federal Reserve System.

Director means the Director of the Federal Housing Finance Agency.

Enterprise means the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac). *Enterprises* means, collectively, Fannie Mae and Freddie Mac.

Federal Home Loan Banks or *Banks* mean the Federal Home Loan Banks established under section 12 of the Federal Home Loan Bank Act (12 U.S.C. 1432). Each of the Banks is a regulated entity.

Federal Housing Finance Agency or *FHFA* means the agency established by 12 U.S.C. 4511.

Planning horizon means the period of time over which the stress projections must extend. The planning horizon cannot be less than nine quarters.

Regulated entity means Fannie Mae, Freddie Mac, or any one of the twelve Federal Home Loan Banks. *Regulated entities* means, collectively, Fannie Mae, Freddie Mac, and the twelve Federal Home Loan Banks.

Scenarios are sets of economic and financial conditions used in the regulated entities' stress tests, including baseline, adverse, and severely adverse.

Stress test is a process to assess the potential impact on a regulated entity of economic and financial conditions ("scenarios") on the consolidated earnings, losses, and capital of the regulated entity over a set planning horizon, taking into account the current condition of the regulated entity and the regulated entity's risks, exposures, strategies, and activities.

§ 1238.3 Annual stress test.

(a) *In general.* Each regulated entity:

(1) Shall complete an annual stress test of itself based on its data as of September 30 of that calendar year, except for data related to the regulated entity's trading and counterparty exposures for which FHFA will communicate the required as of date in the fourth quarter of each year;

(2) The stress test shall be conducted in accordance with this section and the methodologies and practices described in § 1238.4.

(b) *Scenarios provided by FHFA.* In conducting its annual stress tests under this section, each regulated entity must use scenarios provided by FHFA, which shall be generally consistent and comparable to those established by the Board, that reflect a minimum of three sets of economic and financial conditions, including a baseline, adverse, and severely adverse scenario. In advance of these stress tests, FHFA will provide to all regulated entities a description of the baseline, adverse, and severely adverse scenarios that each regulated entity shall use to conduct its annual stress tests under this part.

§ 1238.4 Methodologies and practices.

(a) *Potential impact.* In conducting a stress test under § 1238.3, each regulated entity shall calculate how each of the following is impacted during each quarter of the stress test planning horizon, for each scenario:

(1) Potential losses, pre-provision net revenues, allowance for loan losses, and future pro forma capital positions over the planning horizon;

(2) Capital levels and capital ratios, including regulatory and any other capital ratios, specified by FHFA; and

(3) Market Value of Equity.

(b) *Planning horizon.* Each regulated entity must use a planning horizon of at least nine quarters over which the impact of specified scenarios would be assessed.

(c) *Additional analytical techniques.* If FHFA determines that the stress test methodologies and practices of a regulated entity are deficient, FHFA may determine that additional analytical techniques and exercises are appropriate for a regulated entity to use in identifying, measuring, and monitoring risks to the financial soundness of the regulated entity, and require a regulated entity to implement such techniques and exercises in order to fulfill the requirements of this part. In addition, FHFA will issue guidance annually to describe the baseline, adverse and severely adverse scenarios, and methodologies to be used in conducting the annual stress test.

(d) *Controls and oversight of stress testing processes.* (1) Each regulated entity must establish and maintain a system of controls, oversight, and documentation, including policies and procedures, designed to ensure that the stress testing processes used by the regulated entity are effective in meeting the requirements of this part. These policies and procedures must, at a minimum, describe the regulated entity's testing practices and methodologies, validation and use of stress test results, and processes for updating the regulated entity's stress testing practices consistent with relevant supervisory guidance; and

(2) The board of directors and senior management of each regulated entity shall approve and annually review their controls, oversight, and documentation, including policies and procedures to ensure compliance with this part.

§ 1238.5 Required report to FHFA and the Board of stress test results and related information.

(a) *Report required for stress tests.* On or before January 5 of each year, each regulated entity must report the results of the stress test required under § 1238.3 to FHFA, and to the Board, in accordance with paragraph (b) of this section;

(b) *Content of report for annual stress test.* Each regulated entity must file a report in the manner and form established by FHFA.

(c) *Confidential treatment of information submitted.* The confidentiality of information submitted to FHFA, and to the Board, under this part shall be determined in accordance with applicable exemptions under the Freedom of Information Act (5 U.S.C. 552(b)); FHFA's Freedom of Information Act regulation (12 CFR part 1202); and the Board's Rules Regarding Availability of Information (12 CFR part 261).

§ 1238.6 Post-assessment actions by regulated entities.

Each regulated entity shall take the results of the stress test conducted under § 1238.3 into account in making changes, as appropriate, to the regulated entity's capital structure (including the level and composition of capital); its exposures, concentrations, and risk positions; any plans for recovery and resolution; and to improve overall risk management. If a regulated entity is under FHFA conservatorship, any post-assessment actions shall require prior FHFA approval.

§ 1238.7 Publication of results by regulated entities.

(a) *Public disclosure of results required for stress tests of regulated entities.* Within 90 days after it submits a report for its required stress test under § 1238.3, a regulated entity shall disclose publicly a summary of the results of the stress test. The summary may be published on the regulated entity's Web site or in any other form that is reasonably accessible to the public;

(b) *Information to be disclosed in the summary.* The information disclosed by each regulated entity shall, at a minimum, include—

(1) A description of the types of risks being included in the stress test;

(2) For each regulated entity, a high-level description of scenarios provided by FHFA, including key variables (such as GDP, unemployment rate, housing prices, foreclosure rate, etc.);

(3) A general description of the methodologies employed to estimate losses, pre-provision net revenue, allowance for loan losses, and changes in capital positions over the planning horizon;

(4) A general description of the use of the required stress test as one element in a regulated entity's overall capital planning and capital adequacy assessment. If a regulated entity is under FHFA conservatorship, this description shall be coordinated with FHFA;

(5) Aggregate losses, pre-provision net revenue, allowance for loan losses, net income, and pro forma capital levels and capital ratios (including regulatory and any other capital ratios specified by FHFA) over the planning horizon, under each scenario; and

(6) Such other data fields, in such form (*e.g.*, aggregated), as the Director may require by order.

§ 1238.8 Additional implementing action.

The Director may, in circumstances considered appropriate, require any regulated entity not subject to this part to conduct stress testing hereunder; and from time to time, issue such guidance and orders as may be necessary to facilitate implementation of this part.

Dated: September 23, 2012.

Edward J. DeMarco,

Acting Director, Federal Housing Finance Agency.

[FR Doc. 2012–24637 Filed 10–4–12; 8:45 am]

BILLING CODE 8070–01–P

INTERNATIONAL TRADE COMMISSION

19 CFR Part 210

Rules of General Application, Adjudication, and Enforcement

AGENCY: International Trade Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The United States International Trade Commission ("Commission") proposes to amend its Rules of Practice and Procedure concerning adjudication and enforcement. The amendments are necessary to address concerns that have arisen about the scope of discovery in Commission proceedings under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) ("section 337"). The intended effect of the proposed amendments is to reduce expensive, inefficient, unjustified, or unnecessary discovery practices in agency proceedings while preserving the opportunity for fair and efficient discovery for all parties.

DATES: To be assured of consideration, written comments must be received by 5:15 p.m. on December 4, 2012.

ADDRESSES: You may submit comments, identified by docket number MISC–041, by any of the following methods:

—*Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

—*Agency Web Site: http://www.usitc.gov.* Follow the instructions for submitting comments on the Web site at *http://www.usitc.gov/secretary/edis.htm.*

—*Mail:* For paper submission. U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436.

—*Hand Delivery/Courier:* U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, from the hours of 8:45 a.m. to 5:15 p.m.

Instructions: All submissions received must include the agency name and docket number (MISC–041), along with a cover letter stating the nature of the commenter's interest in the proposed rulemaking. All comments received will be posted without change to *http://www.usitc.gov,* including any personal information provided. For paper copies, a signed original and 8 copies of each set of comments should be submitted to Lisa R. Barton, Acting Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436.

Docket: For access to the docket to read background documents or comments received, go to *http://www.usitc.gov* and/or the U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: Clark S. Cheney, telephone 202–205–2661, Office of the General Counsel, United States International Trade Commission. Hearing-impaired individuals are advised that information on this matter can be obtained 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 at *http://www.usitc.gov.*

SUPPLEMENTARY INFORMATION: The preamble below is designed to assist readers in understanding these proposed amendments to the Commission Rules. This preamble provides background information, a regulatory analysis of the proposed amendments, an explanation of the proposed amendments to Part 210, and a description of the proposed amendments to the rules. The Commission encourages members of the public to comment on whether the language of the proposed amendments is sufficiently clear for users to understand, in addition to any other comments they wish to make on the proposed amendments.

If the Commission decides to proceed with this rulemaking after reviewing the comments filed in response to this notice, the proposed rule revisions will be promulgated in accordance with

provisions found in section 553 of the Administrative Procedure Act ("APA") (5 U.S.C. 553), although not all provisions of section 553 apply to this rulemaking. The revisions will be codified in 19 CFR Part 210.

Background

Section 335 of the Tariff Act of 1930 (19 U.S.C. 1335) authorizes the Commission to adopt such reasonable procedures, rules, and regulations as it deems necessary to carry out its functions and duties. This rulemaking seeks to improve provisions of the Commission's existing Rules of Practice and Procedure.

This rulemaking was undertaken to address concerns that have arisen about the scope of discovery in Commission proceedings under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) ("section 337"). The Commission proposes amendments to its rules governing investigations under section 337 in order to increase the efficiency of its section 337 investigations.

Over the past year, the Commission has been considering proposals to improve procedures relating to discovery in Commission proceedings under section 337 generally and to improve procedures relating to the discovery of electronically stored information ("e-discovery") specifically. On July 19, 2011, The George Washington University Law School hosted a forum on the discovery of electronically stored information in section 337 investigations. Presenters at the forum stated that parties to section 337 investigations often search and produce large volumes of information stored in electronic format to satisfy discovery obligations in section 337 proceedings but that only a small fraction of that information is admitted into the investigation record. Presenters questioned whether the potential benefit of discovered materials outweighs the costs associated with current discovery obligations. Presenters also compared e-discovery procedures in various district courts with discovery procedures at the Commission and made various proposals for improving the Commission's procedures.

The Commission has considered, *inter alia*, e-discovery proposals from the International Trade Commission Trial Lawyers Association; a draft proposal on e-discovery from the International Trade Commission Committee of the American Bar Association Intellectual Property section; a model e-discovery order prepared by the Federal Circuit Advisory Council; e-discovery provisions in a pilot program underway in the U.S. District Court for the Southern District of New York; e-discovery standards promulgated by the U.S. District Court for the District of Delaware; a model order regarding e-discovery in patent cases issued by the U.S. District Court for the Eastern District of Texas; ground rules promulgated by administrative law judges at the Commission; and analogous portions of the Federal Rules of Civil Procedure that concern limitations on discovery and that concern the discovery of electronically stored information.

Some of the materials considered by the Commission describe a risk of inadvertent disclosure of privileged information or attorney work product during the production of electronically stored information. Accordingly, the Commission has also considered provisions in the Federal Rules of Civil Procedure and the Federal Rules of Evidence concerning the discovery of privileged or protected information.

After reviewing the foregoing materials and other information, the Commission is considering adopting certain rules relating to discovery generally, to e-discovery specifically, and to the discovery of privileged information and attorney work product. Some of the provisions under consideration could result in limitations on discovery in section 337 investigations. Other provisions would implement, in section 337 investigations, some of the standards provided in the Federal Rules of Civil Procedure and the Federal Rules of Evidence concerning the discovery of electronically stored information and concerning the discovery of privileged or protected information.

The current notice of proposed rulemaking is consistent with the Commission's plan to ensure that the Commission's rules are effective, as detailed in the Commission's Plan for Retrospective Analysis of Existing Rules, published February 14, 2012, and found at 77 FR 8114. This plan was issued in response to Executive Order 13579 of July 11, 2011, and established a process under which the Commission will periodically review its significant regulations to determine whether any such regulations should be modified, streamlined, expanded, or repealed so as to make the agency's regulatory program more effective or less burdensome in achieving regulatory objectives. During the two years following the publication of the plan, the Commission expects to review a number of aspects of its rules. This includes a general review of existing regulations in 19 CFR Parts 201, 207, and 210. It should be noted that some of the amendments proposed in this notice have been under consideration since before the plan was established.

The Commission invites the public to comment on all of these proposed rules amendments. In any comments, please consider addressing whether the language of the proposed amendments is sufficiently clear for users to understand. Please also consider addressing how the proposed rules amendments could be improved and offering specific constructive alternatives where appropriate. Because some of the provisions in the proposed amendments are similar to certain provisions in the Federal Rules of Civil Procedure, the Commission is interested in comments concerning the relevance of any variances between the proposals and similar provisions in the Federal Rules of Civil Procedure.

Consistent with its ordinary practice, the Commission is issuing these proposed amendments in accordance with certain requirements found in section 553 of the APA, although not all provisions of section 553 apply to this rulemaking. This procedure entails the following steps: (1) Publication of a notice of proposed rulemaking; (2) solicitation of public comments on the proposed amendments; (3) Commission review of public comments on the proposed amendments; and (4) publication of final amendments at least thirty days prior to their effective date.

Regulatory Analysis of Proposed Amendments to the Commission's Rules

The Commission has determined that the proposed rules do not meet the criteria described in section 3(f) of Executive Order 12866 (58 FR 51735, Oct. 4, 1993) and thus do not constitute a significant regulatory action for purposes of the Executive Order.

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is inapplicable to this rulemaking because it is not one for which a notice of final rulemaking is required under 5 U.S.C. 553(b) or any other statute. Although the Commission has chosen to publish a notice of proposed rulemaking, these proposed regulations are "agency rules of procedure and practice," and thus are exempt from the notice requirement imposed by 5 U.S.C. 553(b).

These proposed rules do not contain federalism implications warranting the preparation of a federalism summary impact statement pursuant to Executive Order 13132 (64 FR 43255, Aug. 4, 1999).

No actions are necessary under the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 *et seq.*) because the proposed rules will not result in

expenditure in the aggregate by State, local, and tribal governments, or by the private sector, of $100,000,000 or more in any one year, and will not significantly or uniquely affect small governments, as defined in 5 U.S.C. 601(5).

The proposed rules are not major rules as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*). Moreover, they are exempt from the reporting requirements of the Contract With America Advancement Act of 1996 (Pub. L. 104–121) because they concern rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties.

The amendments are not subject to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3504(h)).

Part 210

Subpart E—Discovery and Compulsory Process

Section 210.27

Section 210.27(b) is similar to Federal Rule of Civil Procedure 26(b)(1) and provides that the scope of discovery in section 337 investigations includes any matter, not privileged, that is relevant to a claim or defense of any party. The rule also currently provides that a person may not object to a discovery request as seeking inadmissible evidence if the request appears reasonably calculated to lead to the discovery of admissible evidence. Unlike Federal Rule of Civil Procedure 26(b), however, § 210.27(b) contains no limitations on the discovery of electronically stored information and provides little guidance on when it would be appropriate for an administrative law judge to limit discovery generally. The Commission proposes to amend § 210.27(b) to state that the scope of discovery in a Commission investigation may be limited in certain ways, as discussed further in the proposed amendments.

The Commission proposes to add to § 210.27 new subsections (c), (d), and (e), which address certain concerns associated with discovery generally, electronically stored information, privileged communications, or attorney work product. The Commission proposes to renumber current subsections (c) and (d) as subsections (f) and (g). Some of the proposed amendments use the word "person." The Commission intends the word "person" to be construed in accordance with the definition found in section 201.2(j) of the Commission's Rules of General Application, 19 CFR § 201.2(j).

Proposed subsection (c) would provide specific limitations on electronically stored information. As discussed in the Committee Notes on the 2006 Amendments to Federal Rule of Civil Procedure 26(b)(2), electronic storage systems often make it easier to locate and retrieve information. These advantages are properly taken into account in determining the reasonable scope of discovery in a particular case. But some sources of electronically stored information can be accessed only with substantial burden and cost. In a particular case, these burdens and costs may make the information on such sources not reasonably accessible. It is not possible to define in a rule the different types of technological features that may affect the burdens and costs of accessing electronically stored information. The Commission therefore proposes to add certain discovery provisions to Part 210 that may be utilized by parties and administrative law judges in a variety of circumstances.

Similar to Federal Rule of Civil Procedure 26(b)(2)(B), proposed subsection (c) would state that a person need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. Nevertheless, if electronically stored information is withheld from discovery because it is not reasonably accessible, the party seeking the information may file a motion to compel discovery of the electronically stored information. Proposed subsection (c) would provide that a person from whom discovery is sought must show, in response to a motion to compel discovery or in response to a motion for a protective order, that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the proposal would allow the administrative law judge to order discovery from such sources if the requesting party shows good cause, considering certain limitations found in proposed subsection (d). Proposed subsection (c) would also allow the administrative law judge to specify conditions for discovery of electronically stored information.

The Commission contemplates that under this paragraph the administrative law judge may, by order, impose conditions for discovery required by the specific circumstances of a given investigation. For example, as stated the Committee Notes on the 2006 Amendments to Federal Rule of Civil Procedure 26(b)(2), the administrative law judge may, in appropriate circumstances, condition discovery upon payment by the requesting party of part or all of the reasonable costs of obtaining information from sources that are not reasonably accessible. The Commission contemplates that the case law developed under Federal Rule of Civil Procedure 26(b)(2)(B) would provide guidance for application of proposed subsection (c).

Proposed subsection (d) requires the administrative law judge to limit discovery otherwise allowed under the Commission's rules in certain circumstances. Similar to Federal Rule of Civil Procedure 26(b)(2)(C), proposed subsection (d) requires limitations on discovery if the administrative law judge determines that the discovery sought is duplicative or can be obtained from a less burdensome source; the party seeking discovery has had ample opportunity to obtain the information; or the burden of the proposed discovery outweighs its likely benefit.

Proposed subsection (d) differs from Federal Rule of Civil Procedure 26(b)(2)(C) in two respects. First, proposed subsection (d) would require the administrative law judge to limit discovery when the person from whom discovery is sought has waived the legal position that justified the discovery or has stipulated to the facts pertaining to the issue to which the discovery is directed. Second, proposed subsection (d) does not include the language in Federal Rule of Civil Procedure 26(b)(2)(C) that requires analysis of the importance of the issues at stake in the action. Rather, the proposed subsection requires the administrative law judge to consider the importance of the discovery in resolving the issues to be decided by the Commission.

Proposed subsection (e) would add new provisions concerning privileged information and attorney work product. As explained in the Advisory Committee Notes concerning Federal Rule of Evidence 502, litigation costs necessary to protect against waiver of attorney-client privilege or attorney work product have become prohibitive due to the concern that any disclosure (however innocent or minimal) will operate as a subject matter waiver of all protected communications or information. This concern is especially troubling in cases involving electronic discovery.

Adding to this uncertainty, no Commission rule requires the production of a privilege log when a person withholds materials from discovery based on an assertion of privilege or work product protection. Privilege log provisions are currently ordered by the administrative law judges in their respective ground rules.

Proposed subsection (e) would mitigate these concerns by providing uniform set of procedures under which persons can make claims of privilege or work product production using a privilege log. Proposed subsection (e) would also include a predictable procedure for determining the consequences of a disclosure of a communication or information covered by the attorney-client privilege or work-product protection, similar to the procedure found in Federal Rule of Civil Procedure 26(b)(5). Proposed subsection (e) goes beyond Federal Rule of Civil Procedure 26(b)(5) by providing prompt deadlines for resolving privilege disputes, in accordance with the expeditious nature of investigations under section 337.

Proposed subsection (e) makes no attempt to alter federal or state law on whether a communication or information is protected under the attorney-client privilege or work-product immunity as an initial matter.

Some proposals considered by the Commission contained a so-called "claw-back" rule that would categorically preclude a finding of a waiver of privilege or work product protection when otherwise protected materials are inadvertently produced in discovery. The "claw-back" proposals considered by the Commission left some question as to whether, in order to avoid a finding of waiver, the holder of the privilege or protection must take reasonable steps to prevent disclosure, as is required by Federal Rule of Evidence 502.

Proposed subsection (e) is not a categorical "claw-back" rule. Proposed subsection (e) would not supplant any applicable waiver doctrine. If proposed subsection (e) were adopted, the Commission would expect administrative law judges to apply federal and common law when determining the consequences of any allegedly inadvertent disclosure. That law would include consideration of whether the holder of the privilege or protection took reasonable steps to prevent disclosure of the information and other considerations found in Federal Rule of Evidence 502.

List of Subjects in 19 CFR Part 210

Administration practice and procedure, Business and industry, Customs duties and inspection, Imports, Investigations.

For the reasons stated in the preamble, the United States International Trade Commission proposes to amend 19 CFR part 210 as follows:

PART 210—ADJUDICATION AND ENFORCEMENT

1. The authority citation for Part 210 continues to read as follows:

Authority: 19 U.S.C. 1333, 1335, and 1337.

Subpart E—Discovery and Compulsory Process

2. Amend § 210.27 by:

a. Adding one sentence at the end of paragraph (b);

b. Renumbering paragraphs (c) and (d) to be paragraphs (f) and (g); and

c. Adding new paragraphs (c), (d), and (e).

The additions and revisions read as follows:

§ 210.27 General provisions governing discovery.

* * * * *

(b) * * * All discovery is subject to the limitations of § 210.27(d).

(c) *Specific Limitations on Electronically Stored Information.* A person need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. The party seeking the discovery may file a motion to compel discovery pursuant to § 210.33(a) of this subpart. In response to the motion to compel discovery, or in a motion for a protective order filed pursuant to § 210.34 of this subpart, the person from whom discovery is sought must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the administrative law judge may order discovery from such sources if the requesting party shows good cause, considering the limitations found in section (d) of this paragraph. The administrative law judge may specify conditions for the discovery.

(d) *General Limitations on Discovery.* In response to a motion made under this paragraph or sua sponte, the administrative law judge must limit by order the frequency or extent of discovery otherwise allowed in this subpart if the administrative law judge determines that:

(1) the discovery sought is unreasonably cumulative or duplicative, or can be obtained from some other source that is more convenient, less burdensome, or less expensive;

(2) the party seeking discovery has had ample opportunity to obtain the information by discovery in the investigation;

(3) the responding person has waived the legal position that justified the discovery or has stipulated to the facts pertaining to the issue to which the discovery is directed; or

(4) the burden or expense of the proposed discovery outweighs its likely benefit, considering the needs of the investigation, the importance of the discovery in resolving the issues to be decided by the Commission, and the public interest.

(e) *Claiming Privilege or Work Product Protection.* (1) When, in response to a discovery request made under this subsection, a person withholds information otherwise discoverable by claiming that the information is privileged or subject to protection as attorney work product, the person must:

(i) expressly make the claim when responding to a relevant question or request; and

(ii) within 10 days of making the claim produce to the requester a privilege log that describes the nature of the information not produced or disclosed, in a manner that will enable the requester to assess the claim without revealing the information at issue. The privilege log must separately identify each withheld document, communication, or thing, and to the extent possible must specify the following for each entry: (A) The date the information was created or communicated; (B) the author(s) or speaker(s); (C) all recipients; (D) the employer and position for each author, speaker, or recipient, including whether that person is an attorney or patent agent; (E) the general subject matter of the information; and (F) the type of privilege or protection claimed.

(2) If information produced in discovery is subject to a claim of privilege or of protection as attorney work product, the person making the claim may notify any person that received the information of the claim and the basis for it. The notice shall identify the information subject to the claim using a privilege log as defined under section (1) of this paragraph. After being notified, a person that received the information (i) must within 5 days return, sequester, or destroy the specified information and any copies it has; (ii) must not use or disclose the information until the claim is resolved; and (iii) must within five 5 days take reasonable steps to retrieve the information if the person disclosed it to others before being notified. Within five 5 days after the notice, the claimant and the parties shall meet and confer in good faith to resolve the claim of privilege or protection. Within five 5 days after the conference, a party may file a motion to compel the production of the information and may, in the motion to compel, use a description of

the information from a privilege log produced under this paragraph. The person that produced the information must preserve the information until the claim of privilege or protection is resolved.

(3) Parties may enter into a written agreement to waive compliance with section (1) of this paragraph for documents, communications, and things created or communicated within a time period specified in the agreement. The administrative law judge may deny any motion to compel information claimed to be subject to the agreement. If information claimed to be subject to the agreement is produced in discovery then the administrative law judge may determine that the produced information is not entitled to privilege or protection.

(4) For good cause, the administrative law judge may order a different period of time for compliance with any requirement of this paragraph.

(f) * * *

(g) * * *

By Order of the Commission.

Issued: October 2, 2012.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2012–24633 Filed 10–4–12; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1200

[Docket No. NHTSA–2012–0137]

RIN 2127–AL29

State Graduated Driver Licensing Incentive Grant

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This NPRM seeks public comment on the minimum qualification criteria for the State Graduated Driver Licensing (GDL) Incentive Grant program authorized under the Moving Ahead for Progress in the 21st Century Act (MAP–21). MAP–21 authorizes grants for States that implement multi-stage licensing systems that require novice drivers younger than 21 years of age to comply with the requirements and process set forth below before receiving an unrestricted driver's license. NHTSA will consider comments in developing a rule implementing the GDL requirements under MAP–21.

DATES: Written comments may be submitted to NHTSA and must be received on or before October 25, 2012.

ADDRESSES: Written comments to NHTSA may be submitted using any one of the following methods:

- *Mail:* Send comments to: Docket Management Facility, M–30, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590.
- *Fax:* Written comments may be faxed to (202) 493–2251.
- *Internet:* To submit comments electronically, go to the US Government regulations Web site at *http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Hand Delivery:* If you plan to submit written comments by hand or courier, please do so at 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington, DC, between 9 a.m. and 5 p.m., Eastern Time, Monday through Friday, except Federal holidays.

Whichever way you submit your comments, please remember to identify the docket number of this document within your correspondence. The docket may be accessed via telephone at (202) 366–9324.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Participation" heading in the "Supplementary Information" section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided.

Privacy Act: Please see the Privacy Act heading under Rulemaking Analyses and Notices.

Docket: All documents in the dockets are listed in the *http://www.regulations.gov* index. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy 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. The Docket Management Facility is open between 9 a.m. and 5 p.m., Eastern Time, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

For Program Issues: Dr. Mary D. Gunnels, Associate Administrator, Regional Operations and Program Delivery, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., NTI–200, Washington, DC 20590. Telephone: (202) 366–2121. Email: *Maggi.Gunnels@dot.gov*.

For Legal Issues: Mr. Russell Krupen, Attorney-Advisor, Office of the Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., NCC–113, Washington, DC 20590. Telephone: (202) 366–1834. Email: *Russell.Krupen@dot.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On July 6, 2012, the Moving Ahead for Progress in the 21st Century Act (MAP–21) was enacted into law (Pub. L. 112–141). Section 31105 of MAP–21 amended 23 U.S.C. 405 to consolidate several grant programs to address national priorities for reducing highway deaths and injuries. MAP–21 also created new grant programs under Section 405, including one for states that adopt and implement graduated driver's licensing (GDL) laws.

All 50 states have enacted GDL laws as a means of providing a safe transition for novice drivers to the driving task. A GDL system generally consists of a multi-staged process for issuing driver's licenses to young, novice drivers. During the first stage, the applicant generally is issued a learner's permit and may operate a motor vehicle only while under the supervision of a licensed driver over the age of 21. During the second stage, the applicant is issued an intermediate (also called a provisional or restricted) license and may operate a motor vehicle without a supervising adult, but only under certain conditions. Additional restrictions also generally apply during these first two stages. Once drivers meet all of the conditions and restrictions of the first two stages, they can then earn an unrestricted driver's license. Some of the significant benefits of GDL systems are that young drivers are able to gain valuable driving experience under controlled circumstances, and they must demonstrate responsible driving behavior and proficiency to move through each level of the system before graduating to the next.

States have various approaches to the requirements and restrictions associated with each GDL stage. Although evaluations clearly show the benefits of adopting GDL laws, these benefits vary greatly across states depending upon the approaches taken. A NHTSA-supported study by Johns Hopkins University, released in June 2006, found that States that have comprehensive GDL programs had a 20-percent reduction in fatal crashes involving 16-year-old drivers. A recent study by the Insurance Institute for Highway Safety ranked States by the

strength of their GDL laws and found that strong GDL programs were associated with 30 percent lower fatal crash rates among 15–17 year-olds compared to weak licensing programs. NHTSA publishes research and information on teen driver safety, including the benefits of GDL systems, on its Web site at *http://www.nhtsa.gov/Driving+Safety/Driver+Education*.

Under a previous authorization, enacted in 1998, Congress expanded the criteria that States could use to satisfy the requirements for an alcohol-impaired driving prevention program incentive grant to include the adoption of a GDL system. *See* Public Law 105–178, Sec. 2004 (The Transportation Equity Act for the 21st Century [TEA–21]) (formerly codified at 23 U.S.C. 410). The agency issued an interim final rule implementing these provisions on December 29, 1998, 63 FR 71688, and a final rule on July 28, 2000, 65 FR 46344. In 2005, Section 2007 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) (Pub. L. 109–59) eliminated the GDL system criterion, and MAP–21 repealed the Section 410 program as it consolidated the various grants into the Section 405 program.

MAP–21 reintroduces an incentive for States to implement GDL systems by authorizing a grant program under the amended Section 405 program. The statute sets forth minimum qualification criteria, permitted exceptions, grant allocation requirements, and limitations on the use of grant funds that are awarded. The fifty States, the District of Columbia, Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the U.S. Virgin Islands are each eligible to apply for a GDL grant. In setting forth the minimum qualification criteria for the GDL grant, MAP–21 is very prescriptive; few, if any, potential applicants currently meet all of the minimum qualification criteria prescribed by MAP–21. This NPRM describes the basic structure of the MAP–21 GDL Incentive Grant and seeks public comment to assist the agency in promulgating a rule implementing those minimum qualification criteria.

II. Minimum Qualification Criteria

MAP–21 specifies a "2-stage licensing process" for a qualifying GDL program. Specifically, in order to receive an incentive grant, a State's driver's license law must require novice drivers younger than 21 years of age to comply with a "learner's permit stage" and an "intermediate stage" before receiving an unrestricted driver's license.

MAP–21 requires that the State GDL system begin with a learner's permit stage that is at least six months in duration and remains in effect until the driver reaches 16 years of age and enters the intermediate stage or reaches 18 years of age. The learner's permit stage must prohibit the driver from using a cellular telephone or any communications device in a non-emergency situation.

Under MAP–21, the State GDL system must include an intermediate stage that commences immediately after the expiration of the learner's permit stage, is at least six months in duration, and remains in effect until the driver reaches 18 years of age. The intermediate stage must restrict driving at night and prohibit the driver from operating a motor vehicle with more than 1 non-familial passenger younger than 21 years of age unless a licensed driver who is at least 21 years of age is in the motor vehicle. Finally, as with the learner's permit stage, the intermediate stage must prohibit the driver from using a cellular telephone or any communications device in a non-emergency situation.

MAP–21 allows the agency to prescribe additional requirements beyond those described above for GDL systems. In allowing this discretion, the statute identifies the following criteria for consideration: During the learner's permit stage, requiring (1) at least 40 hours of behind-the-wheel training with a licensed driver who is at least 21 years of age, (2) a driver training course, and (3) the driver to be accompanied and supervised by a licensed driver who is at least 21 years of age at all times while such driver is operating a motor vehicle; During the learner's permit and intermediate stages, in addition to any other penalties imposed by State law, an automatic delay in the grant of an unrestricted driver's license for any individual who, during either of those stages, is convicted of a driving-related offense, including driving while intoxicated, misrepresentation of his or her true age, reckless driving, driving without wearing a seat belt, speeding, and any other driving-related offense as determined by the Agency.

MAP–21 requires NHTSA to promulgate regulations necessary to implement the minimum qualification criteria for the GDL program in accordance with the notice and comment provisions under 5 U.S.C. 553. Accordingly, this notice seeks public comment on the minimum qualification criteria set forth above. For example, should the agency adopt all or only some of the additional criteria identified in MAP–21? Are there any further criteria that should be adopted? Commenters are directed to the MAP–21 amendments to 23 U.S.C. 405 (specifically, new section 405(g)(2)), set forth in section 31105 of MAP–21, for the full text of these qualification criteria. NHTSA will consider all timely comments in developing a rule implementing the GDL requirements under MAP–21.

III. Public Participation

MAP–21 requires NHTSA to implement regulations creating a single application process for both the Section 405 grant applications and applications for Highway Safety Grants under 23 U.S.C. 402, to be included in the State Highway Safety Plan that is used currently by the States to apply for the Section 402 grants, and further establishes a single deadline for such applications to enable the award of grants early in the fiscal year (FY). NHTSA intends to issue regulations as expeditiously as possible to provide sufficient lead time for States to develop and submit applications and receive FY 2013 grant funds as early as practicable in that fiscal year, as well as provide lead time for FY 2014 grant applications, which are due on July 1, 2013, as specified by MAP–21. Because of these deadlines, NHTSA is operating under an aggressive schedule to issue the new regulations required by MAP–21.

NHTSA plans to consider all public comments on the GDL criteria timely received under this notice in the course of implementing the GDL requirements under MAP–21. The agency plans to combine, in one rule, the GDL requirements that are the subject of today's notice with the MAP–21 requirements for the Section 402 program grants and the other Section 405 program grants. In that rule, NHTSA will also address the application process, qualification criteria, and use of grant funds by the States, as well as any other relevant requirements and information for the implementation of the new grant programs. In order to ensure that NHTSA has adequate time to take into account all comments submitted in response to this NPRM and to issue a rule that provides the States sufficient lead time to prepare applications for all grants under MAP–21, NHTSA has limited the comment period for today's notice to 20 days. (See **DATES** section.)

A. How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the

Docket, please include the docket number of this document in your comments. Your comments must not be more than 15 pages long. (*See* 49 CFR § 553.21.) We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your primary comments. There is no limit on the length of the attachments.

Please submit your comments, including the attachments, to Docket Management by any of the methods given above under **ADDRESSES**.

If you are submitting comments electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using Optical Character Recognition (OCR) process, thus allowing the agency to search and copy certain portions of your submissions. Optical character recognition (OCR) is the process of converting an image of text, such as a scanned paper document or electronic fax file, into computer-editable text.

B. How can I be sure my comments were received?

If you submit your comments by mail and wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

C. Will the agency consider late comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If a comment is received too late for us to consider in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

D. How can I read the comments submitted by other people?

You may read the materials placed in the docket for this document (*e.g.*, the comments submitted in response to this document by other interested persons) at any time by going to *http://www.regulations.gov*. Follow the online instructions for accessing the dockets. You may also read the materials at the Docket Management Facility by going to the street address given above under **ADDRESSES**. The Docket Management Facility is open between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays. Some people may submit late comments. Accordingly, we recommend that you periodically check the docket for new material.

IV. Statutory Basis for This Action

The agency's proposal would implement the State GDL Incentive Grant program created by section 31105 of the Moving Ahead for Progress in the 21st Century Act (Pub. L. 112–141), which requires the Department of Transportation to issue implementing regulations for national priority safety programs, including the State GDL Incentive Grant program.

V. Regulatory Analyses and Notices

A. Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 13563, and DOT Regulatory Policies and Procedures

The agency has considered the impact of this rulemaking action under E.O. 12866, E.O. 13563, and the Department of Transportation's regulatory policies and procedures. This rulemaking was not reviewed by the Office of Management and Budget under E.O. 12866, "Regulatory Planning and Review." The rulemaking action has also been determined to be not significant under the Department's regulatory policies and procedures. (44 FR 11034; February 26, 1979).

Today's NPRM only seeks public comment on the minimum qualification criteria for the State Graduated Driver Licensing Incentive Grant program authorized under MAP–21. NHTSA will consider any comments it receives as it develops a rule that combines the GDL requirements that are the subject of today's notice with the MAP–21 requirements for the Section 402 and Section 405 grant programs. The minimum qualification criteria addressed in this rule affect only the State GDL Incentive Grant program, and the funds to be distributed under that program total no more than $13.25 million in fiscal year 2013 and $13.6 million in fiscal year 2014.

The agency concludes that the impacts of this proposed action are so minimal that preparation of a full regulatory evaluation is not required. However, the agency does expect safety benefits resulting from the implementation of conforming GDL systems by States.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980 (5 U.S.C. 601 *et seq.*) requires agencies to evaluate the potential effects of their proposed and final rules on small businesses, small organizations, and small governmental jurisdictions. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities. The Small Business Regulatory Enforcement Fairness Act (SBREFA) amended the RFA to require Federal agencies to provide a statement of the factual basis for certifying that an action would not have a significant economic impact on a substantial number of small entities.

This NPRM is for a rulemaking that will implement a new grant program enacted by Congress in MAP–21. Under this new Federal program, States will receive grant funds if they adopt compliant GDL systems. This program will affect only State governments, which are not considered to be small entities as that term is defined by the RFA. Therefore, I certify that this action will not have a significant impact on a substantial number of small entities and find that the preparation of a Regulatory Flexibility Analysis is unnecessary.

C. Executive Order 13132 (Federalism)

Executive Order 13132 on "Federalism" requires NHTSA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." 64 FR 43255 (August 10, 1999). "Policies that have federalism implications" are defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, an agency may not issue a regulation with Federalism implications that imposes substantial direct compliance costs and that is not required by statute unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments or the agency consults with State and local governments in the process of developing the proposed regulation. An agency also may not issue a regulation with Federalism implications that preempts a State law without consulting with State and local officials.

The agency has analyzed this rulemaking action in accordance with the principles and criteria set forth in Executive Order 13132, and has

determined that this proposed rule would not have sufficient Federalism implications as defined in the order to warrant formal consultation with State and local officials or the preparation of a federalism summary impact statement. However, NHTSA continues to engage with state representatives regarding general implementation of MAP–21, including this grant program, and expects to continue these informal dialogues in connection with the forthcoming consolidated grant regulations mandated by MAP–21.

D. Executive Order 12988 (Civil Justice Reform)

Pursuant to Executive Order 12988 (61 FR 4729 (February 7, 1996)), "Civil Justice Reform," the agency has considered whether this proposed rule would have any retroactive effect. I conclude that it would not have any retroactive or preemptive effect, and judicial review of it may be obtained pursuant to 5 U.S.C. 702. That section does not require that a petition for reconsideration be filed prior to seeking judicial review. This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

E. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, as implemented by the Office of Management and Budget (OMB) in 5 CFR part 1320, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act. Although MAP–21 requires the submission of applications for the State GDL Incentive Grant, the application procedures will be addressed in a subsequent and separate rulemaking action. This NPRM only solicits public comment on minimum grant qualification criteria.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in expenditures by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted annually for inflation with base year of 1995). This proposal would not meet the definition of a Federal mandate because the resulting annual State expenditures would not exceed the minimum threshold. The program is voluntary and States that choose to apply and qualify would receive grant funds.

G. National Environmental Policy Act

NHTSA has considered the impacts of this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that this proposal would not have a significant impact on the quality of the human environment.

H. Executive Order 13175 (Consultation and Coordination With Indian Tribes)

The agency has analyzed this proposal under Executive Order 13175, and has determined that the proposed action would not have a substantial direct effect on one or more Indian tribes, would not impose substantial direct compliance costs on Indian tribal governments, and would not preempt tribal law. Therefore, a tribal summary impact statement is not required.

I. Regulatory Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in or about April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

J. Privacy Act

Please note that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit *http://dms.dot.gov*.

Authority: Pub. L. 112–141, Section 31105; 23 U.S.C. 405(g) (as set forth in MAP–21); delegation of authority at 49 CFR §§ 1.94 and 1.95.

Issued On: October 1, 2012.

Ronald Medford,

Deputy Administrator, National Highway Traffic Safety Administration.

[FR Doc. 2012–24640 Filed 10–4–12; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–134042–07]

RIN 1545–BG81

Basis of Indebtedness of S Corporations to Their Shareholders; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document cancels a public hearing on proposed regulations under section 1366 of the Internal Revenue Code; relating to basis of indebtedness of S corporations to their shareholders.

DATES: The public hearing originally scheduled for October 9, 2012 at 10 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Oluwafunmilayo Taylor of the Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration) at (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A correction to a notice of proposed rulemaking and a notice of public hearing that appeared in the **Federal Register** on July 5, 2012 (77 FR 39655) announced that a public hearing was scheduled for October 9, 2012, at 10 a.m. in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. The subject of the public hearing is under section 1366 of the Internal Revenue Code.

The public comment period for these regulations expired on September 10, 2012. The notice of proposed rulemaking and notice of public hearing instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of Monday, October 1, 2012, no one has requested to speak. Therefore, the public hearing scheduled for October 9, 2012, is cancelled.

LaNita VanDyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, Procedure and Administration.

[FR Doc. 2012–24670 Filed 10–4–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 20 and 25

[REG–141832–11]

RIN 1545–BK74

Portability of a Deceased Spousal Unused Exclusion Amount; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document cancels a public hearing on proposed regulations under sections 2001, 2010, and 2505 of the Internal Revenue Code; that provide guidance on the estate and gift tax applicable exclusion amount.

DATES: The public hearing originally scheduled for October 18, 2012 at 10 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Oluwafunmilayo Taylor of the Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration) at (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing that appeared in the **Federal Register** on June 18, 2012 (77 FR 36229) announced that a public hearing was scheduled for October 18, 2012, at 10 a.m. in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. The subject of the public hearing is under sections 2001, 2012, and 2505 of the Internal Revenue Code.

The public comment period for these regulations expired on September 17, 2012. The notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of Monday, October 1, 2012, no one has requested to speak. Therefore, the public hearing scheduled for October 18, 2012, is cancelled.

LaNita VanDyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, Procedure and Administration.

[FR Doc. 2012–24667 Filed 10–4–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2012–0900]

RIN 1625–AA00

Safety Zone, Coast Guard Exercise Area, Hood Canal, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Coast Guard is proposing to establish a safety zone around vessels involved in Coast Guard training exercises in Hood Canal, WA. A safety zone is necessary to ensure the safety of the maritime public during these exercises, which involve fast moving surface vessels, smoke machines, pyrotechnics, and other elements which could create safety concerns for waterway users. This safety zone would ensure the safety of the maritime public by prohibiting any person or vessel from entering or remaining in the safety zone unless authorized by the Captain of the Port (COTP) or a Designated Representative.

DATES: Comments and related material must be received by the Coast Guard on or before December 4, 2012.

ADDRESSES: You may submit comments identified by docket number using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail or Delivery:* 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. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email ENS Nathaniel P. Clinger; Waterways Management Division, Coast Guard Sector Puget Sound; Coast Guard; telephone 206–217–6045, email *SectorPugetSoundWWM@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, 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. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at *http://www.regulations.gov*, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, type the docket number USCG–2012–0900 in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble

as being available in the docket, go to *http://www.regulations.gov*, type the docket number USCG–2012–0900 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.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

4. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

B. Regulatory History and Information

Temporary final rules have been established and published for previous Coast Guard exercises of this type in the Hood Canal, on 28 October 2011, and on 08 May 2012. No negative comments or complaints were received pertaining to these rules.

C. Basis and Purpose

The legal basis for this proposed rule is 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Public Law 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1.

The Coast Guard utilizes the northern part of the Hood Canal, WA to conduct training exercises. During these exercises, tactical vessels are maneuvering through the Hood Canal from the entrance of Dabob Bay to Foul Weather Bluff. These exercises include fast moving surface vessels, smoke machines, and pyrotechnics. Blank ammunition, flares and LA51 warning munitions may be used during these exercises as well. This safety zone is being created to ensure the safety of the maritime public and vessels participating in these exercises; preventing collisions between exercising vessels and the maritime public by keeping the maritime public a safe distance away from potentially startling or disorienting smoke, bright flashes, and loud noises.

D. Discussion of Proposed Rule

The safety zone that would be established by this rule would prohibit any person or vessel from entering or remaining within 500 yards of any vessel involved in Coast Guard training exercises in the northern area of Hood Canal, WA. Members of the maritime public will be able to identify participating vessels as those flying the Coast Guard Ensign. The COTP may also be assisted in the enforcement of the zone by other federal, state, or local agencies. The Coast Guard will publish a notice of enforcement at least 10 days prior to an exercise. Notification may also include but is not limited to, Broadcast Notice to Mariners or Local Notice to Mariners.

E. Regulatory Analyses

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

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The Coast Guard bases this finding on the fact that the safety zone will be in place for a limited period of time and vessel traffic wiii be able to transit around the safety zone. Maritime traffic may also request permission to transit through the zone from the COTP, Puget Sound or a Designated Representative.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this proposed rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which may be small entities; the owners and operators of vessels intending to operate in the waters covered by the safety zone while it is in effect. The rule would not have a significant economic impact on a substantial number of small entities because the safety zone would be in place for limited periods of time and maritime traffic would still be able to transit around the safety zone. Maritime traffic may also request permission to transit through the zone from the COTP, Puget Sound or a Designated Representative.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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 proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed 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 proposed rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER**

INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children From Environmental Health Risks

We have analyzed this proposed 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.

11. Indian Tribal Governments

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

12. Energy Effects

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

14. Environment

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

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 proposes to amend 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, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.1339 to read as follows:

§ 165.1339 Safety Zone; Coast Guard Exercise Area, Hood Canal, Washington.

(a) *Location.* The following area is a safety zone: All waters encompassed within 500 yards of any vessel that is involved in a Coast Guard training exercise while such vessel is transiting Hood Canal, WA between Foul Weather Bluff and the entrance to Dabob Bay. Vessels involved will be various sizes and can be identified as those flying the Coast Guard Ensign.

(b) *Regulations.* In accordance with the general regulations in 33 CFR Part 165, Subpart C, no person may enter or remain in the safety zone created in this rule unless authorized by the Captain of the Port or a Designated Representative. See 33 CFR Part 165, Subpart C, for additional information and requirements. Vessel operators wishing to enter the zone during the enforcement period must request permission for entry by contacting the on-scene patrol commander on VHF channel 13 or 16, or the Sector Puget Sound Joint Harbor Operations Center at (206) 217–6001.

(c) *Enforcement Period.* The safety zone described in paragraph (a) of this section will be enforced by the Captain of the Port only upon notice. Notice of the enforcement by the Captain of the Port will be provided by all appropriate means, in accordance with 33 CFR 165.7(a). Such means will include publication in the **Federal Register**, and may also include Broadcast Notice to Mariners, Local Notice to Mariners, or both.

Dated: September 24, 2012.

S.J. Ferguson,

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

[FR Doc. 2012–24607 Filed 10–4–12; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 2

[FRL–9733–8]

Clean Water Act; Contractor Access to Confidential Business Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intended transfer of confidential business information to contractor, subcontractors, and consultants.

SUMMARY: The Environmental Protection Agency's (EPA's) Office of Water's (OW's) Office of Science and Technology (OST) has authorized Eastern Research Group (ERG), its subcontractors, and its consultants to access confidential business information (CBI) collected from numerous industries. Transfer of this information is necessary for ERG to assist the Office of Water in the preparation of effluent guidelines and standards for certain industries.

We have determined that the contractors listed below require access

to CBI submitted to us under Section 308 of the Clean Water Act and in connection with various programs and are providing notice and an opportunity to comment. The nature of the work and its necessity, and the type of access granted, is described below for each contractor. Information has been provided to this contractor under a previous agreement since September 26, 2002.

Transfer of the information to ERG will allow the contractor and subcontractors to support EPA in the planning, development, and review of effluent limitations guidelines and standards under the Clean Water Act (CWA). The information being transferred was or will be collected under the authority of section 308 of the CWA. Some information being transferred from the pulp, paper, and paperboard industry was collected under the additional authorities of section 114 of the Clean Air Act (CAA) and section 3007 of the Resource Conservation and Recovery Act (RCRA). Interested persons may submit comments on this intended transfer of information to the address noted below.

DATES: Comments on the transfer of data are due October 15, 2012.

ADDRESSES: Comments may be sent to Mr. M. Ahmar Siddiqui, Document Control Officer, Engineering and Analysis Division (4303T), Room 6231S EPA West, U.S. EPA, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. M. Ahmar Siddiqui, Document Control Officer, at (202) 566–1044, or via email at *siddiqui.ahmar@epa.gov*.

SUPPLEMENTARY INFORMATION: In accordance with 40 CFR 2.302(h), EPA has transferred CBI to various contractors and subcontractors over the history of the effluent guidelines program. EPA determined that this transfer was necessary to enable the contractors and subcontractors to perform their work in supporting EPA in planning, developing, and reviewing effluent guidelines and standards for certain industries.

Today, EPA is giving notice that it has entered into a contract with ERG, contract number EP–C–12–021, located in Chantilly, Virginia. The purpose of this contract is to secure technical and engineering analysis support for EPA in its development, review, implementation, and defense of water-related initiatives for a variety of industries. To obtain assistance in responding to this contract, ERG has entered into contracts with the following subcontractors: Advanced Environmental Management Group, LLC (AEM, located in Plymouth, Michigan), Aqua Terra Consultants (located in Mountain View, California), Avanti Corporation (located in Alexandria, Virginia), Great Lakes Environmental Center (GLEC, located in Traverse City, Michigan), and Mabbett & Associates (located in Bedford, Massachusetts), PG Environmental, LLC (located in Herndon, Virginia), Bill Kennedy, Orion Engineering (located in Charlotte, NC), John H. Martin, Hall Associates (located in Georgetown, DE), and John P. Martin, JPMartin Energy Strategy, LLC (located in Saratoga Springs, New York).

All EPA contractor, subcontractor, and consultant personnel are bound by the requirements and sanctions contained in their contracts with EPA and in EPA's confidentiality regulations found at 40 CFR part 2, Subpart B. ERG will adhere to EPA-approved security plans which describe procedures to protect CBI. ERG will apply the procedures in these plans to CBI previously gathered by EPA and to CBI that may be gathered in the future. The security plans specify that contractor personnel are required to sign non-disclosure agreements and are briefed on appropriate security procedures before they are permitted access to CBI. No person is automatically granted access to CBI: A need to know must exist.

The information that will be transferred to ERG consists of information previously collected by EPA to support the development and review of effluent limitations guidelines and standards under the CWA. In particular, information, including CBI, collected for the planning, development, and review of effluent limitations guidelines and standards for the following industries may be transferred: Airport deicing; aquaculture; centralized waste treatment; coal bed methane; concentrated animal feeding operations; coal mining; construction and development; drinking water treatment; industrial container and drum cleaning; industrial laundries; industrial waste combustors; iron and steel manufacturing; landfills; meat and poultry products; metal finishing; metal products and machinery; nonferrous metals manufacturing; oil and gas extraction (including coalbed methane); ore mining and dressing; organic chemicals, plastics, and synthetic fibers; pesticide chemicals; petroleum refining; pharmaceutical manufacturing; pulp, paper, and paperboard manufacturing; shale gas extraction; steam electric power generation; textile mills; timber products processing; tobacco; and transportation equipment cleaning.

EPA also intends to transfer to ERG all information listed in this notice, of the type described above (including CBI) that may be collected in the future under the authority of section 308 of the CWA or voluntarily submitted (e.g., in comments in response to a **Federal Register** notice), as is necessary to enable ERG to carry out the work required by its contract to support EPA's effluent guidelines planning process and the development of effluent limitations guidelines and standards.

Dated: September 18, 2012.

Jeffrey L. Lape,

Acting Director, Office of Science and Technology.

[FR Doc. 2012–23519 Filed 10–4–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R04–RCRA–2012–0124; FRL–9735–1]

Tennessee: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Tennessee has applied to EPA for final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to Tennessee. In the "Rules and Regulations" section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not issue a proposed rule prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. EPA has explained the reasons for this authorization in the preamble to the immediate final rule. Unless EPA receives written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If EPA receives comments that oppose this action, we will withdraw the immediate final rule and it will not take effect. EPA will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Comments must be received on or before November 5, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–RCRA–2012–0124, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: johnson.otis@epa.gov.*
- *Fax:* (404) 562–9964 (prior to faxing, please notify the EPA contact listed below).
- *Mail:* Send written comments to Otis Johnson, Permits and State Programs Section, RCRA Programs and Materials Management Branch, RCRA Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
- *Hand Delivery or Courier:* Otis Johnson, Permits and State Programs Section, RCRA Programs and Materials Management Branch, RCRA Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R04–RCRA–2012–0124. 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 which 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 information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*)

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov*, or in hard copy. You may view and copy Tennessee's application at the EPA, Region 4, RCRA Division, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.

You may also view and copy Tennessee's application from 8:00 a.m. to 4:00 p.m. at the Tennessee Department of Environment and Conservation, 5th Floor, L & C Tower, 401 Church Street, Nashville, Tennessee 37243–1535; telephone number: (615) 562–0780. Interested persons wanting to examine these documents should make an appointment with the office at least a week in advance.

FOR FURTHER INFORMATION CONTACT: Otis Johnson, Permits and State Programs Section, RCRA Programs and Materials Management Branch, RCRA Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960; telephone number: (404) 562–8481; fax number: (404) 562–9964; email address: *johnson.otis@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the "Rules and Regulations" section of this **Federal Register**.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 2012–24097 Filed 10–4–12; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 77, No. 194
Friday, October 5, 2012

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

October 1, 2012.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (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 those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food and Nutrition Service

Title: Special Supplemental Nutrition Program for Women, Infants, and Children Breastfeeding Policy Inventory.

OMB Control Number: 0584–NEW.

Summary of Collection: The Healthy, Hunger-Free Kids Act of 2010 (Pub. L. 111–296, Sec. 305) mandates programs under its authorization to cooperate with U.S. Department of Agriculture program research and evaluation activities. The mandate applies to Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) agencies. The Food and Nutrition Service (FNS) is requesting approval to conduct the WIC Local Agency Breastfeeding Policy and Practice Inventory. WIC provides supplemental foods, health care referrals, and nutrition education to nutritionally at-risk, low-income pregnant women, new mothers, their infants, and children up to age five. Research has shown that there is no better food than breast milk for a baby's first year of life. Breastfeeding provides many health, nutritional, economic, and emotional benefits to both mother and baby. FNS will collect information using a self-administered Web-based survey of all State and local WIC agencies.

Need and use of the information: The information collected from the survey will obtain a census of (1) all measures of breastfeeding that State and local WIC agencies currently collect, including their definitions and methods of collection, as well as the most recent values of those measures; (2) the data system agencies use to store and process breastfeeding data and the types of information they report to other agencies or external organizations; and (3) breastfeeding policies and practices at State and local WIC agencies. Without the information FNS will not have a comprehensive assessment of the types of breastfeeding measures that State and local WIC agencies collect, the range of breastfeeding policies and practices agencies offer, and the type of data systems and reporting that agencies use for breastfeeding data storage and processing.

Description of Respondents: State, Local, or Tribal Government; Not-for-profit institutions.

Number of Respondents: 2,090.

Frequency of Responses: Report: Other (one time).

Total Burden Hours: 4,178.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2012–24589 Filed 10–4–12; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF COMMERCE

Economics and Statistics Administration

Bureau of Economic Analysis Advisory Committee

AGENCY: Bureau of Economic Analysis.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463 as amended by Pub. L. 94–409, Pub. L. 96–523, Pub. L. 97–375 and Pub. L. 105–153), we are announcing a meeting of the Bureau of Economic Analysis Advisory Committee. The meeting will address ways in which the national economic accounts can be presented more effectively for current economic analysis and recent statistical developments in national accounting.

DATES: Friday, November 16, 2012 the meeting will begin at 9:00 a.m. and adjourn at 3:30 p.m.

ADDRESSES: The meeting will take place at the Bureau of Economic Analysis at 1441 L St. NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Gianna Marrone, Program Analyst, Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; telephone number: (202) 606–9633.

Public Participation: This meeting is open to the public. Because of security procedures, anyone planning to attend the meeting must contact Gianna Marrone of BEA at (202) 606–9633 in advance. The meeting is physically accessible to people with disabilities. Requests for foreign language interpretation or other auxiliary aids should be directed to Gianna Marrone at (202) 606–9633.

SUPPLEMENTARY INFORMATION: The Committee was established September 2, 1999. The Committee advises the Director of BEA on matters related to the development and improvement of BEA's

national, regional, industry, and international economic accounts, especially in areas of new and rapidly growing economic activities arising from innovative and advancing technologies, and provides recommendations from the perspectives of the economics profession, business, and government. This will be the Committee's twenty-fourth meeting.

Dated: September 5, 2012.

Brian C. Moyer,

Deputy Director, Bureau of Economic Analysis.

[FR Doc. 2012–24561 Filed 10–4–12; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

International Trade Administration

Executive-Led Trade Mission to South Africa and Zambia

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The United States Department of Commerce, International Trade Administration, U.S. and Foreign Commercial Service is amending the Notice published at 77 FR 31574, May 29, 2012, regarding the Executive-Led Trade Mission to South Africa and Zambia scheduled for November 26–30, 2012, to revise the dates of the application deadline from October 5, 2012 to the new deadline of October 12, 2012.

SUPPLEMENTARY INFORMATION: Amendments to Revise the Dates and Provide for Selection of Applicants on a Rolling Basis:

Background

Recruitment for this Mission began in May 2012. Due to summer holidays, it has been determined that additional time is needed to allow for additional recruitment and marketing in support of the mission. Applications will now be accepted through October 12, 2012 (and after that date if space remains and scheduling constraints permit), interested U.S. agriculture, mining, transportation, water, energy and infrastructure firms and trade organizations which have not already submitted an application are encouraged to do so.

Amendments

For the reasons stated above, the Timeframe for Recruitment and Applications section of the Notice of the Executive-Led Trade Mission to South Africa and Zambia. Recruitment for this mission will conclude no later than September 21, 2012. The U.S. Department of Commerce will review applications and make selection decisions on a rolling basis beginning August 5, 2012. We will inform all applicants of selection decisions no later than October 26, 2012. Applications received after the October 12, 2012 deadline will be considered only if space and scheduling constraints permit.

FOR FURTHER INFORMATION CONTACT: Frank Spector, Office of Domestic Operations, Trade Promotion Programs, Phone: 202–482–2054; Fax: 202–482–9000, Email: *Frank.Spector@trade.gov.*

Frank Spector,

Senior International Trade Specialist.

[FR Doc. 2012–24555 Filed 10–4–12; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC268

Marine Mammals; File No. 16239

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Dan Engelhaupt, Ph.D., HDR EOC, 5700 Lake Wright Drive, Norfolk, VA 23502–1859, has applied in due form for a permit to conduct research on cetaceans and pinnipeds in the Atlantic and Pacific Oceans.

DATES: Written, telefaxed, or email comments must be received on or before November 5, 2012.

ADDRESSES: The application and related documents are available for review by selecting "Records Open for Public Comment" from the *Features* box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov*, and then selecting File No. 16239 from the list of available applications.

These documents are also available upon written request or by appointment in the following offices: See **SUPPLEMENTARY INFORMATION.**

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov*. Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Kristy Beard or Joselyd Garcia-Reyes, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

The purpose of the proposed research is to study: (1) Presence/absence of marine mammals in U.S. Naval exercise, proposed energy and construction areas; (2) movement patterns of marine mammal species most at risk; and (3) population structure based on a variety of parameters for marine mammals occupying waters shared with the U.S. Navy, renewable energy industry, and pier-based industries requiring construction activities. All species of cetaceans and pinnipeds would be harassed during vessel and aerial surveys, including photo-identification. Cetacean species would be harassed during underwater photography. Surveys would be conducted year-round in all U.S. and international waters in the Pacific Ocean (including Alaska, Washington, Oregon, California, Hawaii, Guam, Marianas Islands, and other U.S. territories) and Atlantic Ocean (including the Gulf of Mexico, western North Atlantic, Caribbean Sea, and Sargasso Seas). The permit would be valid for five years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Documents may be reviewed in the following locations:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376;

Northwest Region, NMFS, 7600 Sand Point Way NE., BIN C15700, Bldg. 1, Seattle, WA 98115–0700; phone (206) 526–6150; fax (206) 526–6426;

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907) 586–7221; fax (907) 586–7249;

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562) 980–4001; fax (562) 980–4018;

Pacific Islands Region, NMFS, 1601 Kapiolani Blvd., Rm 1110, Honolulu, HI 96814–4700; phone (808) 944–2200; fax (808) 973–2941;

Northeast Region, NMFS, 55 Great Republic Drive, Gloucester, MA 01930; phone (978) 281–9328; fax (978) 281–9394; and

Southeast Region, NMFS, 263 13th Avenue South, Saint Petersburg, FL 33701; phone (727) 824–5312; fax (727) 824–5309.

Dated: October 1, 2012.

P. Michael Payne,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2012–24690 Filed 10–4–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC180

Fisheries of the South Atlantic and Gulf of Mexico; South Atlantic Fishery Management Council (Council) Scientific and Statistical Committee (SSC); South Atlantic Fishery Management Council Socio-Economic Sub-Panel (SEP); Public Meetings

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

ACTION: Notice of revision to Council SSC meeting.

SUMMARY: The Council is adding consideration of additional analyses on the wreckfish population to the October 23–25, 2012 SSC meeting. The meeting will be held in Charleston, SC. see **SUPPLEMENTARY INFORMATION.**

DATES: The meetings will be held October 23—25, 2012. See **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The meeting will be held at the Crowne Plaza, 4831 Tanger Outlet Boulevard, North Charleston SC; telephone: (877) 744–4422.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; telephone: (843) 571–4366; email: *Kim.Iverson@safmc.net.*

SUPPLEMENTARY INFORMATION: Under the Reauthorized Magnuson-Stevens Conservation and Management Act, the SSC is the body responsible for reviewing the Council's scientific materials. The original notice published in the **Federal Register** on September 25, 2012 (77 FR 58981). This notice is to add an agenda topic to an earlier noticed meeting. The added agenda topic would allow the SSC to consider additional analyses of the wreckfish population. All other previously-published information remains the same.

SSC Meeting Schedule

October 23, 2012, 8:30 a.m.–6 p.m.
October 24, 2012, 8:30 a.m.–6 p.m.
October 25, 2012, 8:30 a.m.–3 p.m.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 3 business days prior to the meeting.

Dated: October 1, 2012.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2012–24535 Filed 10–4–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Pacific Fishery Management Council (Pacific Council) will convene a meeting of the Salmon Advisory Subpanel (SAS) by telephone conference that is open to the public.

DATES: The SAS will meet on Monday, October 29, 2012 from 1 p.m. to 3 p.m., or when business for the call is completed.

ADDRESSES: A public listening station will be available at the Pacific Council Office, Small Conference Room, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384; telephone: (503) 820–2280.

FOR FURTHER INFORMATION CONTACT: Mike Burner, Staff Officer; telephone: (503) 820–2280.

SUPPLEMENTARY INFORMATION: Please note, this is not a public hearing; it is a work session for the primary purpose of drafting SAS reports and recommendations for the November 2–7, 2012 Council meeting in Costa Mesa, CA. The primary purpose of the meeting is to review information in the Pacific Council's November 2012 meeting briefing book related to salmon and ecosystem-based management, and to develop comments and recommendations for consideration at the November 2012 Pacific Council meeting.

Although non-emergency issues not contained in the meeting agenda may come before the SAS for discussion, those issues may not be the subject of formal SAS action during this meeting. SAS action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the 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 Mr. Kris Kleinschmidt at (503) 820–2280 at least 5 days prior to the meeting date.

Dated: October 2, 2012.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2012–24615 Filed 10–4–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Fisheries of the Gulf of Mexico; Southeast Data, Assessment and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 28 Gulf of Mexico Spanish mackerel and cobia assessment webinars.

SUMMARY: The SEDAR 28 assessment of the Gulf of Mexico Spanish mackerel and cobia fisheries will consist of a series of workshops and supplemental webinars. This notice is for three webinars associated with the Assessment portion of the SEDAR process. See **SUPPLEMENTARY INFORMATION.**

DATES: The SEDAR 28 Assessment Workshop Webinars #9, #10 and #11 will be held on October 23, November 8 and December 10, 2012, respectively, from 1 p.m. until 5 p.m. EDT. The established time may be adjusted as necessary to accommodate the timely completion of discussions relevant to the assessment process. Such adjustments may result in the meeting being extended from or completed prior to the times established by this Notice.

ADDRESSES: The webinar will be held via a GoToMeeting Webinar Conference. The webinar is open to members of the public. Those interested in participating should contact Ryan Rindone at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request meeting information at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Ryan Rindone, SEDAR Coordinator, 2203 N Lois Ave., Suite 1100, Tampa FL 33607; telephone: (813) 348–1630; email: *ryan.rindone@gulfcouncil.org.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico Fishery Management Council, in conjunction with NOAA Fisheries, has implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a three-step process including: (1) Data Workshop; (2) Assessment Process including a workshop and webinars; and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The Assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico Fishery Management Council, NOAA Fisheries Southeast Regional Office, and NOAA Southeast Fisheries Science Center. Participants include: data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations (NGOs); international experts; and staff of Councils, Commissions, and state and federal agencies.

SEDAR 28 Assessment Workshop Webinar

Panelists will continue deliberations and discussions regarding modeling methodologies for the Gulf of Mexico Spanish mackerel and cobia fisheries.

Special Accommodations

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **FOR FURTHER INFORMATION CONTACT**) at least 10 business days prior to the meeting.

Dated: October 2, 2012.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2012–24616 Filed 10–4–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648- XC184

Marine Mammals; File No. 17403

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that a permit has been issued to Robert Pilley, Leighside, Bridge Road, Leighwoods, Bristol, BS8 3PB, United Kingdom, to conduct commercial/educational photography on bottlenose dolphins (*Tursiops truncatus*).

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376; and Southeast Region, NMFS, 263 13th Avenue South, Saint Petersburg, FL 33701; phone (727) 824–5312; fax (727) 824–5309.

FOR FURTHER INFORMATION CONTACT: Colette Cairns or Carrie Hubard, (301) 427–8401.

SUPPLEMENTARY INFORMATION: On August 24, 2012, notice was published in the **Federal Register** (77 FR 51519) that a request for a commercial/educational photography permit to take bottlenose dolphins had been submitted by the above-named applicant. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216). Section 104(c)(6) provides for photography for educational or commercial purposes involving non-endangered and non-threatened marine mammals in the wild.

Mr. Pilley is authorized to film bottlenose dolphin strand feeding events in the estuaries and creeks of Bull Creek and around Hilton Head, South Carolina, and mud plume feeding events in the waters of the Florida Keys. Filmmakers may use filming platforms such as: a static, remotely-operated camera placed on the mudflats, a radio-controlled camera helicopter, and a radio-controlled camera boat. For both locations combined, up to 196 dolphins annually may be approached and filmed. Filming may occur over 14 days in each location. Footage would be used in two wildlife education documentaries: "Earthflight 3D", and "Dolphins-Spy in the Pod", both for the British Broadcasting Corporation and Discovery Channel. The permit will expire five years from the date of issuance.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: October 1, 2012.

P. Michael Payne,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2012–24697 Filed 10–4–12; 8:45 am]

BILLING CODE 3510–22–P

COMMISSION OF FINE ARTS

Notice of Meeting

The next meeting of the U.S. Commission of Fine Arts is scheduled for 18 October 2012, at 9:00 a.m. in the Commission offices at the National Building Museum, Suite 312, Judiciary Square, 401 F Street NW., Washington, DC 20001–2728. Items of discussion may include buildings, parks, and memorials.

Draft agendas and additional information regarding the Commission are available on our Web site: *www.cfa.gov*. Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Thomas Luebke, Secretary, U.S. Commission of Fine Arts, at the above address; by emailing *staff@cfa.gov;* or by calling 202–504–2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated 27 September 2012 in Washington, DC.

Thomas Luebke,

Secretary.

[FR Doc. 2012–24460 Filed 10–4–12; 8:45 am]

BILLING CODE 6331–01–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from the Procurement List.

SUMMARY: The Committee is proposing to add products and a service to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities and to delete products previously furnished by such agencies.

Comments Must Be Received on or Before: 11/5/2012.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C.8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the products and service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following products and service are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Products

NSN: 4240–00–NIB–0042—Reflective Safety Belt, ARMY, Adjustable 31″ to 55″, Gold/Black
NSN: 4240–00–NIB–0043—Reflective Safety Belt, NAVY, Adjustable 31″ to 55″, Silver/Black
NSN: 4240–00–NIB–0045—Reflective Safety Belt, USMC, Adjustable 31″ to 55″, Amber/Scarlet
NSN: 4240–00–NIB–0044—Reflective Safety Belt, AIR FORCE, Adjustable 31″ to 55″, Silver/Blue
NSN: 4240–00–NIB–0046—Reflective Safety Belt, Vinyl, Adjustable 31″ to 55″, White
NSN: 4240–00–NIB–0047—Reflective Safety Belt, Vinyl, Adjustable 31″ to 55″, Fluorescent Lime/Yellow
NSN: 4240–00–NIB–0048—Reflective Safety Belt, Vinyl, Adjustable 31″ to 55″, Blue
NSN: 4240–00–NIB–0049—Reflective Safety Belt, Vinyl, Adjustable 31″ to 55″, Fluorescent Red/Orange
NSN: 4240–00–NIB–0050—Reflective Safety Belt, Vinyl, Adjustable 31″ to 55″, Red
NSN: 4240–00–NIB–0051—Reflective Safety Belt, Vinyl, Adjustable 31″ to 55″, Fluorescent Green
NSN: 4240–00–NIB–0052—Reflective Safety Belt, Vinyl, Adjustable 31″ to 55″, Dark Green
NPA: Envision, Inc., Wichita, KS.
Contracting Activity: Defense Logistics Agency Troop Support, Philadelphia, PA.
Coverage: C-List for 100% of the requirement of the Department of Defense, as aggregated by the Defense Logistics Agency Troop Support, Philadelphia, PA.

Service

Service Type/Location: Custodial Service, Corps of Engineers (COE), Whiteman Resident Office, 930 Arnold Avenue, Building, Whiteman AFB, MO.
NPA: Portco, Inc., Portsmouth, VA.
Contracting Activity: Dept. of the Army, W071 Endist Kansas City, Kansas City, MO.

Deletions

The following products are proposed for deletion from the Procurement List:

Products

NSN: 9905–00–565–6268—Sign Kit, Replacement
NPA: CW Resources, Inc., New Britain, CT.
Contracting Activity: General Services Administration, Fort Worth, TX.
NSN: 8465–00–860–0256—Cover, Water Canteen
NPA: Human Technologies Corporation, Utica, NY.
Contracting Activity: Defense Logistics Agency Troop Support, Philadelphia, PA.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2012–24609 Filed 10–4–12; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

Notice Correction: On 9/28/2012 (77 FR 59595), the Committee for Purchase From People Who Are Blind or Severely Disabled published a notice for additions to the Procurement List with the effective date of 10/22/2012. The effective date should be 10/29/2012.

SUMMARY: This action adds a product and services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Effective Date:* 11/5/2012.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION:

Additions

On 8/3/2012 (77 FR 46411), 8/10/2012 (77 FR 47823), and 8/17/2012 (77 FR 49784), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the product and services and impact of the additions on the current or most recent contractors, the Committee has determined that the product and

services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the product and services to the Government.
2. The action will result in authorizing small entities to furnish the product and services to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product and services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following product and services are added to the Procurement List:

Product

NSN: 7510–00–NIB–1855—Correction Tape, Pen Style, Retractable.
NPA: Industries for the Blind, Inc., West Allis, WI.
Contracting Activity: General Services Administration, New York, NY.
Coverage: A-List for the Total Government Requirement as aggregated by the General Services Administration.

Services

Service Type/Location: Janitorial Service, U.S. Department of Agriculture Natural Resources, Conservation Service, Shiprock Field Office, Old Post Office Route 491, Shiprock, NM.
NPA: Presbyterian Medical Services, Santa Fe, NM.
Contracting Activity: U.S. Department of Agriculture Natural Resources, Conservation Service, Soil Conservation Service, Phoenix, AZ.
Service Type/Location: Custodial and Grounds Maintenance Services, Austin Courthouse, 501 West 5th Street, Austin, TX.
NPA: Crossroads Diversified Service, Inc., Sacramento, CA.
Contracting Activity: General Services Administration, Public Buildings Service, Building Services Team, Fort Worth, TX.
Service Type/Locations: Custodial and Grounds Maintenance Services, Border Patrol Sector HDQ, 3819 Patterson Road, New Orleans, LA.
Federal Supply Service (FSS) Depot, 400 Edwards Avenue, Harahan, LA.
NPA: Louisiana Industries for the Disabled, Inc., Baton Rouge, LA.
Contracting Activity: General Services Administration, Public Buildings Service, Building Services Team, Fort Worth, TX.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2012–24610 Filed 10–4–12; 8:45 am]

BILLING CODE 6353–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting Notice

TIME AND DATE: Wednesday, October 10, 2012, 10 a.m.–12 p.m.

PLACE: Hearing Room 420, Bethesda Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Commission Meeting—Open to the Public

MATTERS TO BE CONSIDERED

Decisional Matters

1. Infant Swings
2. Consideration of Opportunities to Reduce Third Party Testing Costs Consistent With Assuring the Compliance of Children's Products

A live webcast of the Meeting can be viewed at *www.cpsc.gov/webcast.*

For a recorded message containing the latest agenda information, call (301) 504–7948.

CONTACT PERSON FOR MORE INFORMATION: Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, (301) 504–7923.

Dated: October 3, 2012.

Todd A. Stevenson,

Secretary.

[FR Doc. 2012–24745 Filed 10–3–12; 11:15 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting Notice

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 77, No. 188, Thursday, September 27, 2012, page 593898.

ANNOUNCED TIME AND DATE OF OPEN MEETING: 10 a.m.–12 p.m., Wednesday October 30, 2012.

CHANGES TO OPEN MEETING AGENDA:

MATTERS TO BE CONSIDERED: Briefing: Infant Swings.

ITEMS REMOVED FROM THE AGENDA: Decisional Matters: 1. Bassinets and Cradles—Notice of Proposed Rulemaking; 2. Consideration of Opportunities to Reduce Third Party Testing Costs Consistent with Assuring the Compliance of Children's Products.

For a recorded message containing the latest agenda information, call (301) 504–7948.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Todd A. Stevenson, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20814 (301) 504–7923.

Dated: October 3, 2012.

Todd A. Stevenson,

Secretary.

[FR Doc. 2012–24746 Filed 10–3–12; 11:15 am]

BILLING CODE 6355–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL12–101–000]

New York Association of Public Power v. Niagara Mohawk Power Corporation, New York Independent System Operator, Inc.; Notice of Amendment to Complaint

Take notice that on September 26, 2012, New York Association of Public Power (Complainant) filed an amendment to its September 11, 2012, Complaint against Niagara Mohawk Power Corporation and New York Independent System Operator, Inc. (Respondents) adding an attachment that was inadvertently deleted from the filed version of the Complaint.

The Complainant certifies that copies of the complaint were served on the contacts for the Respondent as listed in the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.*

Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on October 9, 2012.

Dated: September 28, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–24570 Filed 10–4–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13739–002]

Lock+ Hydro Friends Fund XLII, LLC; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Major Original License.

b. *Project No.:* 13739–002.

c. *Date filed:* September 17, 2012.

d. *Applicant:* Lock+ Hydro Friends Fund XLII, LLC.

e. *Name of Project:* Braddock Locks and Dam Hydroelectric Project.

f. *Location:* At the existing U.S. Army Corps of Engineers' Braddock Locks and Dam on the Monongahela River, in Allegheny County, Pennsylvania. The project would not occupy any federal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Mr. Mark R. Stover, Lock+™ Hydro Friends Fund XLII, c/o Hydro Green Energy, LLC, 900 Oakmont Lane, Suite 310, Westmont, IL 60559; (877) 556–6566 ext. 711; email—*mark@hgenergy.com.*

i. *FERC Contact:* John Mudre at (202) 502–8902; or email at *john.mudre@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. See, 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* November 16, 2012.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

m. The application is not ready for environmental analysis at this time.

n. The proposed project would utilize the existing U.S. Army Corps of Engineers' Braddock Locks and Dam and the Braddock Pool, and would consist of the following new facilities: (1) A new powerhouse with five turbine-generators having a total installed capacity of 3,750 kilowatts; (2) a new approximately 3,450-foot-long electric transmission line; (3) a switchyard and control room; and (4) appurtenant facilities. The average annual generation is estimated to be 25,020 megawatt-hours.

The proposed project would deploy hydropower turbines within a patented "Large Frame Module" (LFM) that would be deployed on the south (river left) side of the dam, opposite the location of the existing navigational locks and at the upstream face of the existing left closure weir. The proposed modular, low environmental impact powerhouse would be approximately 60.4 feet long, 16.6 feet wide, and 40 feet high, and constructed of structural-grade steel. The powerhouse will bear on a concrete foundation on rock that is anchored to the existing left closure weir. A trash rack with 6-inch openings would be placed at the powerhouse intake to increase safety and protect the turbines from large debris.

o. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. With this notice, we are initiating consultation with the Pennsylvania State Historic Preservation Officer (SHPO), as required by section 106 of the National Historic Preservation Act and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

q. Procedural schedule: The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

Issue Notice of Acceptance	October 2012.
Issue Scoping Document 1 for comments.	November 2012.
Comments on Scoping Document 1.	January 2013.
Issue Scoping Document 2	February 2013.
Issue notice of ready for environmental analysis.	February 2013.
Commission issues EA, draft EA, or draft EIS.	August 2013.
Comments on EA or draft EA or draft EIS.	September 2013.
Commission issues final EA or final EIS.	December 2013.

Dated: September 28, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–24565 Filed 10–4–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP12–525–000]

National Fuel Gas Supply Corporation; Notice of Application

Take notice that on September 18, 2012, National Fuel Gas Supply Corporation (National Fuel), 6363 Main Street, Williamsville, New York 14221, filed in Docket No. CP12–525–000, an application pursuant to section 7(c) of the Natural Gas Act (NGA), for a certificate of public convenience and necessity requesting authorization to use Well 7451 on an interim basis to withdraw migrated storage gas, pending the filing of an application to revise the certificated boundaries of its Beech Hill, East Independence and West Independence Storage Fields, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Any questions regarding the applications should be directed to David W. Reitz, Deputy General Counsel, National Fuel Gas Supply Corporation, 6363 Main Street, Williamsville, New York 14221, or call 716–857–7949.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: October 19, 2012.

Dated: September 28, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–24569 Filed 10–4–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP12–498–000]

The Gas Company, LLC; Notice of Application

Take notice that on August 9, 2012, The Gas Company, LLC (the Company), Topa Financial Center 18th Floor, 745 Fort Street, Honolulu, HI 96813, filed in the above referenced docket an application pursuant to section 3 of the Natural Gas Act (NGA) for authorization to operate facilities that fall within the definition of "LNG terminal" in NGA section 2(11). Specifically, the Company seeks NGA section 3 authorization to operate the first of three phases of facilities that, together, will be used to receive, unload, load, store, transport, gasify or process natural gas that is sourced on the Continental U.S. and transported by waterborne vessel to Hawaii, all as more fully set forth in the application which is on file with the Commission and opens to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions regarding this Application should be addressed to

George D. (Chip) Cannon, Jr., Patton Boggs LLP, 2550 M Street NW., Washington DC 20037, Tel: (202) 457–6000, Email: *ccannon@pattonboggs.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: 5 p.m. Eastern Time on October 19, 2012.

Dated: September 28, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–24568 Filed 10–4–12; 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: RP11–2619–000.
Applicants: Transcontinental Gas Pipe Line Company.
Description: Annual Cash-Out Report Period Ending July 31, 2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5255.
Comments Due: 5 p.m. ET 10/10/12.

Docket Numbers: RP12–1105–000.
Applicants: Gulf Crossing Pipeline Company LLC.
Description: Vanguard Permian 597 & 598 to Tenaska 600 & 599 Cap Rel Neg Rate Agmts to be effective 10/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5036.
Comments Due: 5 p.m. ET 10/10/12.

Docket Numbers: RP12–1106–000.
Applicants: Gulf South Pipeline Company, LP.
Description: HK 37367 to Sequent 39757 Cap Rel Neg Rate Agmt filing to be effective 10/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5040.
Comments Due: 5 p.m. ET 10/10/12.

Docket Numbers: RP12–1107–000.
Applicants: Gulf South Pipeline Company, LP.
Description: QEP Amendments 36601–11 and 37657–22 to Neg Rate Agmts to be effective 10/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5041.
Comments Due: 5 p.m. ET 10/10/12.

Docket Numbers: RP12–1108–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Cap Rel Neg Rate Agmt—Encana 37663 to Texla 40128 to be effective 10/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5042.
Comments Due: 5 p.m. ET 10/10/12.

Docket Numbers: RP12–1109–000.
Applicants: Gulf South Pipeline Company, LP.
Description: ONEOK 34951 to BG Energy 40123 cap rel neg rate agmt filing to be effective 10/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5043.
Comments Due: 5 p.m. ET 10/10/12.

Docket Numbers: RP12–1110–000.
Applicants: Northern Natural Gas Company.
Description: 20120928 Negotiated Rate to be effective 10/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5044.
Comments Due: 5 p.m. ET 10/10/12.

Docket Numbers: RP12–1111–000.
Applicants: Total Peaking Services, L.L.C.
Description: Total Peaking Services, L.L.C.—Order No. 587–V Compliance Filing to be effective 12/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5063.
Comments Due: 5 p.m. ET 10/10/12.

Docket Numbers: RP12–1112–000.
Applicants: Maritimes & Northeast Pipeline, L.L.C.
Description: MNUS FRQ 2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5070.

Comments Due: 5 p.m. ET 10/10/12.
Docket Numbers: RP12–1113–000.
Applicants: Ryckman Creek Resources, LLC.
Description: NAESB Compliance Filing to be effective 12/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5071.
Comments Due: 5 p.m. ET 10/10/12.
Docket Numbers: RP12–1114–000.
Applicants: Kern River Gas Transmission Company.
Description: 2012 NAESB 2.0 to be effective 12/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5084.
Comments Due: 5 p.m. ET 10/10/12.
Docket Numbers: RP12–1115–000.
Applicants: Eastern Shore Natural Gas Company.
Description: NAESB Compliance Order No. 587–V to be effective 12/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5097.
Comments Due: 5 p.m. ET 10/10/12.
Docket Numbers: RP12–1116–000.
Applicants: Transwestern Pipeline Company, LLC.
Description: 2012 TW NAESB 2.0 Filing to be effective 12/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5109.
Comments Due: 5 p.m. ET 10/10/12.
Docket Numbers: RP12–1117–000.
Applicants: ETC Tiger Pipeline, LLC.
Description: ETC Tiger 2012 NAESB Version 2.0 Filing to be effective 12/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5113.
Comments Due: 5 p.m. ET 10/10/12.
Docket Numbers: RP12–1118–000.
Applicants: Fayetteville Express Pipeline LLC.
Description: FEP 2012 NAESB Version 2.0 Compliance Filing to be effective 12/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5118.
Comments Due: 5 p.m. ET 10/10/12.
Docket Numbers: RP12–1119–000.
Applicants: Gulf South Pipeline Company, LP.
Description: HK 37731 to Texla 40150 Cap Rel Neg Rate Agmt filing to be effective 10/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5133.
Comments Due: 5 p.m. ET 10/10/12.
Docket Numbers: RP12–1120–000.
Applicants: Gulf South Pipeline Company, LP.
Description: HK 37731 to Sequent 40151 Cap Rel Neg Rate Agmt filing to be effective 10/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5134.
Comments Due: 5 p.m. ET 10/10/12.
Docket Numbers: RP12–1121–000.
Applicants: Portland General Electric Company.
Description: Order 587–B Filing to be effective 12/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5147.
Comments Due: 5 p.m. ET 10/10/12.
Docket Numbers: RP12–1122–000.
Applicants: ANR Pipeline Company.
Description: Marshfield Reduction Project to be effective 11/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5157.
Comments Due: 5 p.m. ET 10/10/12.
Docket Numbers: RP12–1123–000.
Applicants: Viking Gas Transmission Company..
Description: Semi Annual FLRP—Fall 2012 to be effective 11/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5159.
Comments Due: 5 p.m. ET 10/10/12.
Docket Numbers: RP12–1124–000.
Applicants: Guardian Pipeline, L.L.C.
Description: Transporter's Use Gas Annual Adjustment 2012 to be effective 11/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5178.
Comments Due: 5 p.m. ET 10/10/12.
Docket Numbers: RP12–1125–000.
Applicants: Gulf States Transmission LLC.
Description: Gulf States Transmission 2012 NAESB V2.0 Filing to be effective 12/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5201.
Comments Due: 5 p.m. ET 10/10/12.
Docket Numbers: RP12–1126–000.
Applicants: Northwest Pipeline GP.
Description: Non-Conforming Filing—WPX (137679) & Idaho Power (139664) to be effective 11/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5211.
Comments Due: 5 p.m. ET 10/10/12.
Docket Numbers: RP12–1127–000.
Applicants: Transcontinental Gas Pipe Line Company.
Description: LNG Fuel Tracker Filing 2012 to be effective 11/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5218.
Comments Due: 5 p.m. ET 10/10/12.
Docket Numbers: RP12–1128–000.
Applicants: TWP Pipeline LLC.
Description: NAESB Compliance Filing to be effective 12/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5224.
Comments Due: 5 p.m. ET 10/10/12.
Docket Numbers: RP12–1129–000.
Applicants: Rager Mountain Storage Company LLC.
Description: NAESB Compliance Filing to be effective 12/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5233.
Comments Due: 5 p.m. ET 10/10/12.
Docket Numbers: RP12–1130–000.
Applicants: Equitrans, L.P.
Description: Negotiated Rate Service Agreement Filing—EQT Energy, LLC to be effective 10/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5234.
Comments Due: 5 p.m. ET 10/10/12.
Docket Numbers: RP12–1131–000.
Applicants: Rockies Express Pipeline LLC.
Description: Interim Fuel Filing 9–28–2012 to be effective 11/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5235.
Comments Due: 5 p.m. ET 10/10/12.
Docket Numbers: RP12–1132–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: Tariff Merger Filing to be effective 10/29/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5252.
Comments Due: 5 p.m. ET 10/10/12.
Docket Numbers: RP12–1133–000.
Applicants: ANR Storage Company.
Description: Market-Based Rates to be effective 11/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5256.
Comments Due: 5 p.m. ET 10/10/12.
Docket Numbers: RP12–1134–000.
Applicants: Fayetteville Express Pipeline LLC.
Description: FEP 2012 HUB Service Filing to be effective 1/1/2013.
Filed Date: 9/28/12.
Accession Number: 20120928–5258.
Comments Due: 5 p.m. ET 10/10/12.

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: RP10–1403–002
Applicants: Sabine Pipe Line LLC
Description: Sabine—Compliance with NAESB WGQ v2.0 to be effective 12/1/2012
Filed Date: 9/28/12
Accession Number: 20120928–5259
Comments Due: 5 p.m. ET 10/10/12
Docket Numbers: RP11–2399–001
Applicants: Chandeleur Pipe Line Company

Description: Chandeleur—Compliance with NAESB WGQ Version 2.0 to be effective 12/1/2012

Filed Date: 9/28/12

Accession Number: 20120928–5231

Comments Due: 5 p.m. ET 10/10/12

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: October 1, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–24599 Filed 10–4–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–2129–001.

Applicants: Midwest Independent Transmission System.

Description: 09–26–12 Schedule 1 Compliance Filing to be effective 8/28/2012.

Filed Date: 9/26/12.

Accession Number: 20120926–5060.

Comments Due: 5 p.m. ET 10/17/12.

Docket Numbers: ER12–2424–001.

Applicants: Public Service Company of New Mexico.

Description: Public Service Company of New Mexico submits tariff filing per 35: Compliance Filing to submit Title Page to be effective 10/7/2012.

Filed Date: 9/25/12.

Accession Number: 20120925–5172.

Comments Due: 5 p.m. ET 10/16/12.

Docket Numbers: ER12–2529–000.

Applicants: KODE Novus II, LLC.

Description: Supplement to Market-Based Rate Application of KODE Novus II, LLC under ER12–2529.

Filed Date: 9/26/12.

Accession Number: 20120926–5012.

Comments Due: 5 p.m. ET 10/10/12.

Docket Numbers: ER12–2682–000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: The Midwest Independent Transmission System Operator, Inc. submits Pro Forma Tariff Sheets Including Proposed Module B–1 to the MISO Tariff.

Filed Date: 9/24/12.

Accession Number: 20120924–5182.

Comments Due: 5 p.m. ET 11/8/12.

Docket Numbers: ER12–2683–000.

Applicants: Entergy Operating Companies.

Description: Entergy Operating Companies submits Pro Forma Ancillary Services Tariff and Notice of Cancellation for Open Access Transmission Tariff.

Filed Date: 9/24/12.

Accession Number: 20120925–0201.

Comments Due: 5 p.m. ET 11/8/12.

Docket Numbers: ER12–2684–000.

Applicants: Southwestern Electric Power Company.

Description: SWEPCO–AECC Potter FA to be effective 8/31/2012.

Filed Date: 9/25/12.

Accession Number: 20120925–5158.

Comments Due: 5 p.m. ET 10/16/12.

Docket Numbers: ER12–2685–000.

Applicants: Meadow Creek Project Company LLC.

Description: Certificate of Concurrence to be effective 9/17/2012.

Filed Date: 9/25/12.

Accession Number: 20120925–5169.

Comments Due: 5 p.m. ET 10/16/12.

Docket Numbers: ER12–2686–000.

Applicants: Tucson Electric Power Company.

Description: RS No. 322, APS RS No. 260, Perrin Ranch LGIA, 0.0.0 to be effective 10/21/2011.

Filed Date: 9/25/12.

Accession Number: 20120925–5171.

Comments Due: 5 p.m. ET 10/16/12.

Docket Numbers: ER12–2687–000.

Applicants: Pacific Gas and Electric Company.

Description: Western WDT Amendment for Cost of Ownership and Meter Reading Charges to be effective 10/1/2012.

Filed Date: 9/26/12.

Accession Number: 20120926–5000.

Comments Due: 5 p.m. ET 10/17/12.

Docket Numbers: ER12–2688–000.

Applicants: Pacific Gas and Electric Company.

Description: KMPUD Engineering Agreement Amendment to be effective 9/27/2012.

Filed Date: 9/26/12.

Accession Number: 20120926–5002.

Comments Due: 5 p.m. ET 10/17/12.

Docket Numbers: ER12–2689–000.

Applicants: Hot Spring Power Company, LLC.

Description: Notice of Cancellation to be effective 9/27/2012.

Filed Date: 9/26/12.

Accession Number: 20120926–5021.

Comments Due: 5 p.m. ET 10/17/12.

Docket Numbers: ER12–2690–000.

Applicants: ISO New England Inc.,New England Power Pool Participants Comm.

Description: Wind Resource Dispatch Rules to be effective 12/1/2012.

Filed Date: 9/26/12.

Accession Number: 20120926–5030.

Comments Due: 5 p.m. ET 10/17/12.

Docket Numbers: ER12–2691–000.

Applicants: Alabama Power Company.

Description: AMEA NITSA Filing to be effective 9/1/2012.

Filed Date: 9/26/12.

Accession Number: 20120926–5082.

Comments Due: 5 p.m. ET 10/17/12.

Docket Numbers: ER12–2692–000.

Applicants: Simpson Tacoma Kraft Company, LLC.

Description: Amendment of Pending Filing 1 to be effective 8/7/2012.

Filed Date: 9/26/12.

Accession Number: 20120926–5086.

Comments Due: 5 p.m. ET 10/17/12.

Docket Numbers: ER12–309–005.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: 9–26–2012 Attachment X QR3 Compliance Filing to be effective 1/1/2012.

Filed Date: 9/26/12.

Accession Number: 20120926–5061.

Comments Due: 5 p.m. ET 10/17/12.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 26, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–24601 Filed 10–4–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC12–148–000.
Applicants: James River Genco, LLC, Portsmouth Genco, LLC, Cogentrix of Alamosa, LLC.
Description: Application for Authorization for Disposition of Jurisdictional Facilities and Request for Expedited Action of Cogentrix of Alamosa, LLC, *et. al.*
Filed Date: 9/27/12.
Accession Number: 20120927–5168.
Comments Due: 5 p.m. ET 10/18/12.

Docket Numbers: EC12–149–000.
Applicants: Marble River, LLC.
Description: Application for Authorization for Disposition of Jurisdictional Facilities and Request for Expedited Action of Marble River, LLC.
Filed Date: 9/28/12.
Accession Number: 20120928–5022.
Comments Due: 5 p.m. ET 10/19/12.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2794–007; ER10–2849–006; ER11–2028–007; ER11–3642–006; ER12–1825–004.
Applicants: EDF Trading North America, LLC, EDF Industrial Power Services (NY), LLC, EDF Industrial Power Services (IL), LLC, Tanner Street Generation, LLC, EDF Industrial Power Services (CA), LLC.
Description: Notice of Non-Material Change in Status of EDF Trading North America, LLC, *et. al.*
Filed Date: 9/28/12.
Accession Number: 20120928–5187.
Comments Due: 5 p.m. ET 10/19/12.

Docket Numbers: ER12–2392–001.
Applicants: Northern States Power Company, A Wisconsin Corporation.
Description: 20120928_Wholesale_Amended2 to be effective 7/2/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5184.
Comments Due: 5 p.m. ET 10/19/12.

Docket Numbers: ER12–2654–001.
Applicants: World Digital Innovations.
Description: World Digital Innovations submits tariff filing per 35.17(b): mbr_tar to be effective 9/30/2012.
Filed Date: 9/27/12.
Accession Number: 20120927–5186.
Comments Due: 5 p.m. ET 10/18/12.

Docket Numbers: ER12–2698–000.
Applicants: Northern Maine Independent System Administrator.
Description: Northern Maine Independent System Administrator, Inc. submits tariff filing per 35.13(a)(2)(iii: Tariff Revisions to be effective 11/26/2012.
Filed Date: 9/27/12.
Accession Number: 20120927–5171.
Comments Due: 5 p.m. ET 10/18/12.

Docket Numbers: ER12–2699–000.
Applicants: NorthWestern Corporation.
Description: NorthWestern Corporation submits tariff filing per 35.13(a)(2)(iii: SA 641—United Grain Conrad Terminal Line Relocation Amended to be effective 6/29/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5003.
Comments Due: 5 p.m. ET 10/19/12.

Docket Numbers: ER12–2700–000.
Applicants: Northern States Power Company, A Wisconsin Corporation.
Description: Northern States Power Company, a Wisconsin corporation submits tariff filing per 35.13(a)(2)(iii: 20120928_Wholesale_Amended to be effective 7/2/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5065.
Comments Due: 5 p.m. ET 10/19/12.

Docket Numbers: ER12–2701–000.
Applicants: Pacific Gas and Electric Company.
Description: Transmission Owner Rate Case 2013 (TO14) to be effective 12/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5172.
Comments Due: 5 p.m. ET 10/19/12.

Docket Numbers: ER12–2702–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc. submits tariff filing per 35.13(a)(2)(iii: 2198R3 KPP NITSA NOA to be effective 9/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5176.
Comments Due: 5 p.m. ET 10/19/12.

Docket Numbers: ER12–2703–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc. submits tariff filing per 35.13(a)(2)(iii: 607R16 Westar Energy, Inc. NITSA NOA to be effective 9/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5177.
Comments Due: 5 p.m. ET 10/19/12.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH12–23–000.
Applicants: AltaGas Ltd.
Description: AltaGas Ltd. submits FERC 65–A Exemption Notification.
Filed Date: 9/27/12.
Accession Number: 20120927–5196.
Comments Due: 5 p.m. ET 10/18/12.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 28, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–24603 Filed 10–4–12; 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: RP12–1071–000.
Applicants: Vector Pipeline L.P.
Description: NAESB 2.0 Compliance Filing to be effective 12/1/2012.
Filed Date: 9/27/12.
Accession Number: 20120927–5025.
Comments Due: 5 p.m. ET 10/9/12.

Docket Numbers: RP12–1072–000.
Applicants: Golden Triangle Storage, Inc.
Description: Proposed Revisions to FERC Gas Tariff to Comply With Order No. 587–V to be effective 12/1/2012.
Filed Date: 9/27/12.
Accession Number: 20120927–5032.
Comments Due: 5 p.m. ET 10/9/12.

Docket Numbers: RP12–1074–000.
Applicants: Dominion Transmission, Inc.
Description: DTI—Northeast Expansion (CP11–39) Incremental Rate to be effective 11/1/2012.

Filed Date: 9/27/12.
Accession Number: 20120927–5051.
Comments Due: 5 p.m. ET 10/9/12.
Docket Numbers: RP12–1075–000.
Applicants: Arlington Storage Company, LLC.
Description: Arlington Storage Company, LLC—Order No. 587–V Compliance Filing to be effective 12/1/2012.
Filed Date: 9/27/12.
Accession Number: 20120927–5073.
Comments Due: 5 p.m. ET 10/9/12.
Docket Numbers: RP12–1076–000.
Applicants: Transcontinental Gas Pipe Line Company.
Description: Order No. 587–V Compliance (NAESB 2.0) to be effective 12/1/2012.
Filed Date: 9/27/12.
Accession Number: 20120927–5075.
Comments Due: 5 p.m. ET 10/9/12.
Docket Numbers: RP12–1077–000.
Applicants: Natural Gas Pipeline Company of America.
Description: Twin Eagle Negotiated Rate to be effective 10/1/2012.
Filed Date: 9/27/12.
Accession Number: 20120927–5091.
Comments Due: 5 p.m. ET 10/9/12.
Docket Numbers: RP12–1078–000.
Applicants: Young Gas Storage Company, Ltd.
Description: Young Gas Storage Company, Ltd.'s Operational Purchases and Sales Annual Report.
Filed Date: 9/27/12.
Accession Number: 20120927–5097.
Comments Due: 5 p.m. ET 10/9/12.
Docket Numbers: RP12–1079–000.
Applicants: Central New York Oil And Gas, L.L.C.
Description: Central New York Oil And Gas Company, LLC—Order No. 587–V Compliance Filing to be effective 12/1/2012.
Filed Date: 9/27/12.
Accession Number: 20120927–5121.
Comments Due: 5 p.m. ET 10/9/12.
Docket Numbers: RP12–1080–000.
Applicants: Steuben Gas Storage Company.
Description: Steuben Gas Storage Company—Order No. 587–V Compliance Filing to be effective 12/1/2012.
Filed Date: 9/27/12.
Accession Number: 20120927–5134.
Comments Due: 5 p.m. ET 10/9/12.
Docket Numbers: RP12–1081–000.
Applicants: Kinder Morgan Illinois Pipeline LLC.
Description: Order No. 587–V Compliance Filing to be effective 12/1/2012.
Filed Date: 9/27/12.
Accession Number: 20120927–5152.
Comments Due: 5 p.m. ET 10/9/12.
Docket Numbers: RP12–1082–000.
Applicants: Guardian Pipeline, L.L.C.
Description: EPC Semi Annual Adjustment—Fall 2012 to be effective 11/1/2012.
Filed Date: 9/27/12.
Accession Number: 20120927–5177.
Comments Due: 5 p.m. ET 10/9/12.
Docket Numbers: RP12–1083–000.
Applicants: ANR Pipeline Company.
Description: Integrys Energy Services to be effective 10/1/2012.
Filed Date: 9/27/12.
Accession Number: 20120927–5179.
Comments Due: 5 p.m. ET 10/9/12.
Docket Numbers: RP12–1084–000.
Applicants: Midcontinent Express Pipeline LLC.
Description: Order No. 587–V Compliance Filing to be effective 12/1/2012.
Filed Date: 9/27/12.
Accession Number: 20120927–5180.
Comments Due: 5 p.m. ET 10/9/12.
Docket Numbers: RP12–1085–000.
Applicants: Equitrans, L.P.
Description: NAESB 2.0 Order No. 587–V Compliance Filing to be effective 12/1/2012.
Filed Date: 9/27/12.
Accession Number: 20120927–5184.
Comments Due: 5 p.m. ET 10/9/12.
Docket Numbers: RP12–1086–000.
Applicants: Pine Needle LNG Company, LLC.
Description: Pine Needle Order No. 587–V Compliance (NAESB 2.0) to be effective 12/1/2012.
Filed Date: 9/27/12.
Accession Number: 20120927–5185.
Comments Due: 5 p.m. ET 10/9/12.
Docket Numbers: RP12–1087–000.
Applicants: Horizon Pipeline Company, L.L.C.
Description: Order No. 587–V Compliance Filing to be effective 12/1/2012.
Filed Date: 9/27/12.
Accession Number: 20120927–5188.
Comments Due: 5 p.m. ET 10/9/12.
Docket Numbers: RP12–1088–000.
Applicants: Trailblazer Pipeline Company LLC.
Description: 2012–09–28 Negotiated Rate Filing BP—Permanent Replacement to be effective 10/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5000.
Comments Due: 5 p.m. ET 10/10/12.
Docket Numbers: RP12–1089–000.
Applicants: Trailblazer Pipeline Company LLC.
Description: NAESB 2.0 to be effective 12/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5001.
Comments Due: 5 p.m. ET 10/10/12.
Docket Numbers: RP12–1090–000.
Applicants: Rockies Express Pipeline LLC.
Description: NAESB 2.0 to be effective 12/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5002.
Comments Due: 5 p.m. ET 10/10/12.
Docket Numbers: RP12–1091–000.
Applicants: Kinder Morgan Interstate Gas Transmissio.
Description: NAESB 2.0 Filing to be effective 12/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5004.
Comments Due: 5 p.m. ET 10/10/12.
Docket Numbers: RP12–1092–000.
Applicants: Kinder Morgan Louisiana Pipeline LLC.
Description: Order No. 587–V Compliance Filing to be effective 12/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5005.
Comments Due: 5 p.m. ET 10/10/12.
Docket Numbers: RP12–1094–000.
Applicants: Bobcat Gas Storage.
Description: Order 587–V Compliance Filing (NAESB Version 2.0 Standards) BGS to be effective 12/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5024.
Comments Due: 5 p.m. ET 10/10/12.
Docket Numbers: RP12–1095–000.
Applicants: East Tennessee Natural Gas, LLC.
Description: Order 587–V Compliance Filing (NAESB Version 2.0 Standards) ETNG to be effective 12/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5025.
Comments Due: 5 p.m. ET 10/10/12.
Docket Numbers: RP12–1096–000.
Applicants: Egan Hub Storage, LLC.
Description: Order 587–V Compliance Filing (NAESB Version 2.0 Standards) Egan to be effective 12/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5026.
Comments Due: 5 p.m. ET 10/10/12.
Docket Numbers: RP12–1097–000.
Applicants: Ozark Gas Transmission, L.L.C.
Description: Order 587–V Compliance Filing (NAESB Version 2.0 Standards) OGT to be effective 12/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5027.
Comments Due: 5 p.m. ET 10/10/12.
Docket Numbers: RP12–1098–000.
Applicants: Gas Transmission Northwest LLC.
Description: Medford E–2 Rate Adjustment to be effective 11/1/2012.
Filed Date: 9/28/12.
Accession Number: 20120928–5028.

Comments Due: 5 p.m. ET 10/10/12.

Docket Numbers: RP12–1099–000.

Applicants: Saltville Gas Storage Company L.L.C.

Description: Order 587–V Compliance Filing (NAESB Version 2.0 Standards) SGSC to be effective 12/1/2012.

Filed Date: 9/28/12.

Accession Number: 20120928–5030.

Comments Due: 5 p.m. ET 10/10/12.

Docket Numbers: RP12–1102–000.

Applicants: Dominion Transmission, Inc.

Description: DTI—2012 Annual EPCA to be effective 11/1/2012.

Filed Date: 9/28/12.

Accession Number: 20120928–5031.

Comments Due: 5 p.m. ET 10/10/12.

Docket Numbers: RP12–1103–000.

Applicants: Dominion Transmission, Inc.

Description: DTI—2012 Annual TCRA to be effective 11/1/2012.

Filed Date: 9/28/12.

Accession Number: 20120928–5032.

Comments Due: 5 p.m. ET 10/10/12.

Docket Numbers: RP12–1104–000.

Applicants: Honeoye Storage Corporation.

Description: Volume No. 1A NAESB Order 587V December 1 2012 to be effective 9/27/2012.

Filed Date: 9/28/12.

Accession Number: 20120928–5033.

Comments Due: 5 p.m. ET 10/10/12.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR § 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, 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: September 28, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–24605 Filed 10–4–12; 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: RP12–1067–000.

Applicants: Leaf River Energy Center LLC.

Description: Leaf River Energy Center LLC—Order No. 587–V Compliance Filing to be effective 12/1/2012.

Filed Date: 9/26/12.

Accession Number: 20120926–5100.

Comments Due: 5 p.m. ET 10/9/12.

Docket Numbers: RP12–1068–000.

Applicants: Tres Palacios Gas Storage LLC.

Description: Tres Palacios Gas Storage LLC—Order No. 587–V Compliance Filing to be effective 12/1/2012.

Filed Date: 9/26/12.

Accession Number: 20120926–5112.

Comments Due: 5 p.m. ET 10/9/12.

Docket Numbers: RP12–1069–000.

Applicants: Natural Gas Pipeline Company of America.

Description: Compliance Filing Pursuant to Order No. 587–V to be effective 12/1/2012.

Filed Date: 9/26/12.

Accession Number: 20120926–5151.

Comments Due: 5 p.m. ET 10/9/12.

Docket Numbers: RP12–1070–000.

Applicants: Midwestern Gas Transmission Company.

Description: Non-Conforming Agreement—Sequent to be effective 10/1/2012.

Filed Date: 9/26/12.

Accession Number: 20120926–5171.

Comments Due: 5 p.m. ET 10/9/12.

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 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: RP12–1054–001.

Applicants: Cameron Interstate Pipeline, LLC.

Description: Cameron Interstate Pipeline Amended NAESB Version 2.0 Filing—Clone to be effective 12/1/2012.

Filed Date: 9/26/12.

Accession Number: 20120926–5054.

Comments Due: 5 p.m. ET 10/9/12.

Docket Numbers: RP12–1055–001.

Applicants: LA Storage, LLC.

Description: LA Storage Amended Compliance Filing Section 5.24 NAESB version 2.0 to be effective 12/1/2012.

Filed Date: 9/26/12.

Accession Number: 20120926–5059.

Comments Due: 5 p.m. ET 10/9/12.

Docket Numbers: RP12–1056–001.

Applicants: Mississippi Hub, LLC.

Description: Mississippi Hub Amended Section 6.24 NAESB Version 2.0 to be effective 12/1/2012.

Filed Date: 9/26/12.

Accession Number: 20120926–5058.

Comments Due: 5 p.m. ET 10/9/12.

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 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: September 27, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–24604 Filed 10–4–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC12–146–000.

Applicants: WPS Westwood Generation, LLC, Sunbury Holdings, LLC.

Description: Application of WPS Westwood Generation, LLC and Sunbury Holdings, LLC for Authorization for Disposition of Jurisdictional Facilities and Request for Expedited Consideration.

Filed Date: 9/26/12.

Accession Number: 20120926–5130.

Comments Due: 5 p.m. ET 10/17/12.

Docket Numbers: EC12–147–000.

Applicants: Post Rock Wind Power Project, LLC.

Description: Section 203 Application of Post Rock Wind Power Project, LLC.

Filed Date: 9/26/12.
Accession Number: 20120926–5169.
Comments Due: 5 p.m. ET 10/17/12.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1544–006; ER10–1546–008; ER10–1547–006; ER10–1549–006; ER10–1550–007; ER10–1551–006; ER10–1974–008; ER10–1975–008; ER10–2253–007; ER10–2627–007; ER10–2629–008; ER10–2636–007; ER10–2638–006; ER10–2669–006; ER10–2670–006; ER10–2671–007; ER10–2673–006; ER10–2674–006; ER10–2675–007; ER10–2676–006; ER10–2677–006; ER10–2678–005; ER10–3319–008; ER11–2424–009;

Applicants: Choctaw Generation Limited Partnership, IPR–GDF SUEZ Energy Marketing North America, Inc., Hopewell Cogeneration Ltd Partnership, Hot Spring Power Company, LLC, Northeastern Power Company, Syracuse Energy Corporation, Northeast Energy Associates, A Limited Partnership, North Jersey Energy Associates, A Limited Partnership, Astoria Energy LLC, FirstLight Hydro Generating Company, FirstLight Power Resources Management, LLC, Mt. Tom Generating Company, LLC, Waterbury Generation, LLC, ANP Bellingham Energy Company, LLC, ANP Blackstone Energy Company, LLC, ANP Funding I, LLC, Armstrong Energy Limited Partnership, L.L.L.P., Calumet Energy Team, LLC, IPA Trading, LLC, Milford Power Limited Partnership, Pleasants Energy, LLC, Troy Energy, LLC, Astoria Energy II LLC, Pinetree Power-Tamworth, Inc.

Description: Notice of Non-Material Change in Status of GDF SUEZ MBR Sellers.

Filed Date: 9/26/12.
Accession Number: 20120926–5133.
Comments Due: 5 p.m. ET 10/17/12.

Docket Numbers: ER11–3616–004.
Applicants: California Independent System Operator Corporation.
Description: California Independent System Operator Corporation submits response to deficiency letter requesting additional information.
Filed Date: 9/26/12.
Accession Number: 20120926–5187.
Comments Due: 5 p.m. ET 10/17/12.

Docket Numbers: ER11–3616–005.
Applicants: California Independent System Operator Corporation.
Description: California Independent System Operator Corporation submits response to deficiency letter requesting additional information.
Filed Date: 9/26/12
Accession Number: 20120926–5187.
Comments Due: 5 p.m. ET 10/17/12.

Docket Numbers: ER11–4100–002.
Applicants: California Independent System Operator Corporation.
Description: California Independent System Operator Corporation submits response to deficiency letter requesting additional information.
Filed Date: 9/26/12.
Accession Number: 20120926–5187.
Comments Due: 5 p.m. ET 10/17/12.

Docket Numbers: ER11–4100–003.
Applicants: California Independent System Operator Corporation.
Description: California Independent System Operator Corporation submits response to deficiency letter requesting additional information.
Filed Date: 9/26/12.
Accession Number: 20120926–5187.
Comments Due: 5 p.m. ET 10/17/12.

Docket Numbers: ER12–2170–000.
Applicants: International Transmission Company.
Description: Comlpliance Filing of International Transmission Company dba ITCTransmission to be effective N/A.
Filed Date: 9/27/12.
Accession Number: 20120927–5151.
Comments Due: 5 p.m. ET 10/18/12.

Docket Numbers: ER12–2312–002.
Applicants: Perigee Energy, LLC.
Description: Perigee Energy, LLC Rate Schedule FERC No. 1 Revision 2 to be effective 9/26/2012.
Filed Date: 9/26/12.
Accession Number: 20120926–5172.
Comments Due: 5 p.m. ET 10/10/12.

Docket Numbers: ER12–2387–002.
Applicants: Southwest Power Pool, Inc.
Description: Amendment to Reallocation of Revenue Filing to be effective 10/1/2012.
Filed Date: 9/26/12.
Accession Number: 20120926–5146.
Comments Due: 5 p.m. ET 10/17/12.

Docket Numbers: ER12–2465–001.
Applicants: Ingenco Wholesale Power, L.L.C.
Description: Notice of Change in Status to be effective 9/17/2012.
Filed Date: 9/27/12.
Accession Number: 20120927–5112.
Comments Due: 5 p.m. ET 10/18/12.

Docket Numbers: ER12–2522–001.
Applicants: D & L Harris and Associates.
Description: Initial to be effective 8/28/2012.
Filed Date: 9/27/12.
Accession Number: 20120927–5061.
Comments Due: 5 p.m. ET 10/18/12.

Docket Numbers: ER12–2590–000.
Applicants: DR Power, LLC.
Description: Amended Application Filing to be effective N/A.
Filed Date: 9/26/12.
Accession Number: 20120926–5148.
Comments Due: 5 p.m. ET 10/17/12.

Docket Numbers: ER12–2693–000.
Applicants: Entergy Operating Companies.
Description: Entergy Operating Companies submits Pro Forma Notice of Cancellation Service Schedule MSS–2 of the Entergy System Agreement.
Filed Date: 9/26/12.
Accession Number: 20120926–0201.
Comments Due: 5 p.m. ET 10/17/12.

Docket Numbers: ER12–2694–000.
Applicants: Northern States Power Company, A Minnesota Corporation, Northern States Power Company, A Wisconsin Corporation.
Description: 2012–09–26 to be effective 11/26/2012.
Filed Date: 9/26/12.
Accession Number: 20120926–5147.
Comments Due: 5 p.m. ET 10/17/12.

Docket Numbers: ER12–2695–000.
Applicants: Public Service Company of Colorado.
Description: 2012_09_26 PSCo MBR Filing to be effective 11/26/2012.
Filed Date: 9/26/12.
Accession Number: 20120926–5156.
Comments Due: 5 p.m. ET 10/17/12.

Docket Numbers: ER12–2696–000.
Applicants: Southwestern Public Service Company.
Description: 9–26–12_SPS MBR Filing to be effective 11/26/2012.
Filed Date: 9/26/12.
Accession Number: 20120926–5161.
Comments Due: 5 p.m. ET 10/17/12.

Docket Numbers: ER12–2697–000.
Applicants: ISO New England Inc., New England Power Pool Participants Committee.
Description: Various Revisions to FCM Rules to be effective 11/26/2012 under ER12–2697 Filing Type: 10.
Filed Date: 9/27/12.
Accession Number: 20120927–5098.
Comments Due: 5 p.m. ET 10/18/12.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR § 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings

can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 27, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–24602 Filed 10–4–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission hereby gives notice that members of the Commission's staff may attend the following meeting held by the Organization of PJM States, Inc. (OPSI):

OPSI's Eighth Annual Meeting

October 1–3, 2012, 8:45 a.m.–5 p.m., Local Time.

The W Chicago City Center Hotel, 172 W. Adams Street, Chicago, IL 60603.

Further information may be found at *http://www.opsi.us/annual_meetings.html*

The discussions at the meeting described above may address matters at issue in the following proceedings:

Docket No. EL05–121, *PJM Interconnection, L.L.C.*
Docket No. EL07–56, *Allegheny Electric Cooperative, Inc., et al,.* v. *PJM Interconnection, L.L.C.*
Docket No. EL07–58, *Organization of PJM States, Inc., et al.,* v. *PJM Interconnection, L.L.C.*
Docket No. EL08–14, *Black Oak Energy LLC, et al.,* v. *FERC*
Docket No. EL10–52, *Central Transmission, LLC* v. *PJM Interconnection, L.L.C.*
Docket No. EL12–45, *PJM Interconnection, L.L.C.*
Docket No. EL12–50, *First Energy Solutions Corporation et al.,* v. *PJM Interconnection, L.L.C.*
Docket No. EL12–54, *Viridity Energy, Inc.* v. *PJM Interconnection, L.L.C.*
Docket No. EL12–69, *Primary Power LLC* v. *PJM Interconnection, L.L.C.*
Docket No. EL12–8, *DC Energy, L.L.C. and DC Energy Mid-Atlantic, L.L.C.* vs. *PJM Interconnection, L.L.C.*
Docket No. AD12–1 and ER11–4081, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER09–1063, *PJM Interconnection, L.L.C.*
Docket No. ER09–1148, *PPL Electric Utilities Corporation*
Docket No. ER09–1256, *Potomac-Appalachian Transmission Highline, L.L.C.*
Docket No. ER09–1589, *FirstEnergy Service Company*
Docket Nos. ER10–253 and EL10–14, *Primary Power, L.L.C.*
Docket No. ER10–549, *PJM Interconnection, L.L.C.*
Docket No. ER11–1844, *Midwest Independent Transmission System Operator, Inc.*
Docket Nos. ER11–2814 and ER11–2815, *PJM Interconnection, L.L.C. and American Transmission Systems, Inc.*
Docket Nos. ER11–2875 and EL11–20, *PJM Interconnection, L.L.C.*
Docket No. ER11–4106, *PJM Interconnection, L.L.C.*
Docket No. ER11–4628, *PJM Interconnection, L.L.C.*
Docket No. ER12–1173, *PJM Interconnection, L.L.C., et. al.*
Docket No. ER12–1177, *PJM Interconnection, L.L.C.*
Docket No. ER12–1178, *PJM Interconnection, L.L.C.*
Docket No. ER12–1204, *PJM Interconnection, L.L.C.*
Docket No. ER12–1761, *PJM Interconnection, L.L.C.*
Docket No. ER12–2080, *GenOn Power Midwest, LP*
Docket No. ER12–2085, *PJM Interconnection, L.L.C.*
Docket No. ER12–2260, *New York Independent System Operator, Inc*
Docket No. ER12–2262, *PJM Interconnection, L.L.C.*
Docket No. ER12–2274, *Public Service Electric and Gas Company*
Docket No. ER12–2391, *PJM Interconnection, L.L.C.*
Docket No. ER12–2399, *PJM Interconnection, L.L.C.*
Docket No. ER12–2417, *PJM Interconnection, L.L.C.*
Docket No. ER12–2440, *PJM Interconnection, L.L.C.*
Docket No. ER12–2442, *PJM Interconnection, L.L.C.*
Docket No. ER12–2469, *PJM Interconnection, L.L.C.*
Docket No. ER12–2486, *PJM Interconnection, L.L.C.*
Docket No. ER12–2518, *PJM Interconnection, L.L.C.*
Docket No. ER12–2527, *PJM Interconnection, L.L.C.*
Docket No. ER12–2550, *PJM Interconnection, L.L.C.*
Docket No. ER12–2574, *PJM Interconnection, L.L.C.*
Docket No. ER12–2594, *PJM Interconnection, L.L.C.*
Docket No. ER12–2599, *PJM Interconnection, L.L.C.*
Docket No. ER12–2604, *PJM Interconnection, L.L.C.*
Docket No. ER12–2606, *PJM Interconnection, L.L.C.*
Docket No. ER12–2610, *PJM Interconnection, L.L.C.*
Docket No. ER12–2616, *PJM Interconnection, L.L.C.*
Docket No. ER12–2624, *PJM Interconnection, L.L.C.*
Docket No. ER12–2661, *PJM Interconnection, L.L.C.*
Docket No. ER12–2663, *PJM Interconnection, L.L.C.*
Docket No. ER12–2664, *PJM Interconnection, L.L.C.*
Docket No. ER12–2671, *PJM Interconnection, L.L.C.*
Docket No. ER12–2688, *PJM Interconnection, L.L.C.*
Docket No. ER12–469, *PJM Interconnection, L.L.C.*
Docket No. ER12–513, *PJM Interconnection, L.L.C.*
Docket No. ER12–718, *New York Independent System Operator, Inc.*
Docket No. ER12–91, *PJM Interconnection, L.L.C.*
Docket No. ER12–92, *PJM Interconnection, L.L.C.*
Docket Nos. ER11–2183 and EL11–32, *American Electric Power Service Corporation*

For more information, contact Valerie Martin, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–6139 or *Valerie.Martin@ferc.gov.*

Dated: September 28, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–24566 Filed 10–4–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission hereby gives notice that members of the Commission's staff may attend the following meetings related to the transmission planning activities of the Mid-Continent Area Power Pool (MAPP) and Southwest Power Pool (SPP):

MAPP–SPP Order 1000 Stakeholder Meeting—October 4, 2012

The above-referenced meeting will be held at:

Crowne Plaza Hotel & Suites Minneapolis Airport, Three Appletree Square, Bloomington, MN 55425.

The above-referenced meeting is open to the public.

Further information may be found at *www.mapp.org.*

The discussions at the meeting described above may address matters at issue in the following proceedings:

Docket No. ER09–35–001, *Tallgrass Transmission, LLC*

Docket No. ER09–36–001, *Prairie Wind Transmission, LLC*

Docket No. ER09–548–001, *ITC Great Plains, LLC*

Docket No. ER09–659–002, *Southwest Power Pool, Inc.*

Docket No. ER11–4105–000, *Southwest Power Pool, Inc.*

Docket No. EL11–34–001, *Midwest Independent Transmission System Operator, Inc.*

Docket No. ER12–1179–000, *Southwest Power Pool, Inc.*

Docket No. ER12–1401–000, *Southwest Power Pool, Inc.*

Docket No. ER12–1401–000, *Southwest Power Pool, Inc.*

Docket No. ER12–1415–000, *Southwest Power Pool, Inc.*

Docket No. ER12–1460–000, *Southwest Power Pool, Inc.*

Docket No. ER12–1610–000, *Southwest Power Pool, Inc.*

Docket No. ER12–1772–000, *Southwest Power Pool, Inc.*

Docket No. ER12–1779–000, *Southwest Power Pool, Inc.*

Docket No. ER12–2366–000, *Southwest Power Pool, Inc.*

Docket No. EL12–2–000, *Southwest Power Pool, Inc.*

Docket No. EL12–60–000, *Southwest Power Pool, Inc., et al.*

Docket No. ER12–2387, *Southwest Power Pool Inc.*

For more information, contact Luciano Lima, Office of Energy Markets Regulation, Federal Energy Regulatory Commission at (202) 288–6738 or *Luciano.Lima@ferc.gov.*

Dated: September 28, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–24571 Filed 10–4–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL12–42–000, EL12–42–001; EL12–43–000, EL12–43–001]

TGP Granada, LLC and Roosevelt Wind Ranch, LLC v. Public Service Company of New Mexico, Tortoise Capital Resources Corp.; TGP Granada, LLC and Roosevelt Wind Ranch, LLC; Notice Establishing Deadline for Comments

On September 5, 2012, Public Service Company of New Mexico (PNM) filed a response to the Commission's July 5 Order,[1] regarding the provision of long-term transmission service over capacity on the Eastern Interconnection Project.

Any person desiring to intervene or protest in the above proceeding 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 October 9, 2012. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: September 27, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–24600 Filed 10–4–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP12–495–000]

Kinder Morgan Interstate Gas Transmission L.L.C.; Notice of Intent To Prepare an Environmental Assessment for the Proposed Pony Express Pipeline Conversion Project and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Pony Express Pipeline Conversion Project involving conversion of facilities from natural gas to oil and construction and operation of new facilities by Kinder Morgan Interstate Gas Transmission L.L.C. (KMIGT) in various counties in Wyoming, Kansas, Colorado and Nebraska. The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. Your input will help the Commission staff determine what issues they need to evaluate in the EA. Please note that the scoping period will close on October 29, 2012.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the facilities for the new segments of natural gas pipeline proposed in this project. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

KMIGT provided landowners with a fact sheet prepared by the FERC entitled "An Interstate Natural Gas Facility On My Land? What Do I Need To Know?". This fact sheet addresses a number of typically-asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC Web site (*www.ferc.gov*).

Summary of the Proposed Project

KMIGT proposes to: (1) Abandon certain natural gas pipeline facilities and the natural gas service therefrom by transfer to an affiliate, Kinder Morgan Pony Express Pipeline LLC (KMPXP), for the purpose of converting the facilities to oil transportation facilities; and (2) construct and operate certain replacement type facilities necessary to continue service to existing natural gas firm transportation customers following the proposed conversion. KMIGT also is seeking authorization to construct

[1] *TGP Granada, LLC* v. *Pub. Serv. Co. of New Mexico,* 140 FERC ¶ 61,005 (2012) (July 5 Order).

certain new compression, pipeline segments and interconnects and has agreed to enter into transportation arrangements with Southern Star Central Gas Pipeline, Inc. (SSC), Trailblazer Pipeline Company, LLC (Trailblazer), Wyoming Interstate Company, Ltd. (WIC) and Natural Gas Pipeline Company of America LLC (NGPL) in order to maintain service for the long-term customer needs of approximately 104,000 dekatherms per day (Dth/day).

Facilities

KMIGT requests Natural Gas Act, Section 7(b) authorization to abandon in place approximately 432.4 miles of the existing Pony Express Pipeline (consisting of 139.1 miles of 20-inch-diamter pipeline, 244.5 miles of 22-inch-diameter pipeline and 48.8 miles of 24-inch-inch-diameter pipeline), with appurtenances, commencing at the discharge side of the Guernsey Compressor Station located in Platte County, Wyoming and terminating at the NGPL Interconnect located in Lincoln County, Kansas.

The facilities listed in Table 1 would be abandoned under Section 7(b) of the regulations. Note, numerous additional ancillary facilities and interconnects would also be abandoned.

TABLE 1

Name of facility	Location (county, State)	Proposed work
Pony Express Pipeline (PXP)	Wyoming, Nebraska, Colorado, Kansas	Abandon 432.4 miles existing 20-, 22-, and 24-inch diameter pipeline.
Sterling Station	Logan County, Colorado	Abandon PXP Sterling Compressor Station.
Omimex Bledsoe Tap/Receipt Meter	Yuma County, Colorado	Abandon 1 valve/tap/receipt site.
Omimex Ferguson Receipt Tap/Meter	Phillips County, Colorado	Abandon 1 valve/tap/receipt site.
Noble Energy Tap/Receipt Meter	Kimball County, Nebraska	Abandon 1 valve/tap/receipt site.
NGPL Delivery Meters	Lincoln County, Kansas	Change delivery to receipt meters (reverse meter).
Herndon Station	Rawlins County, Kansas	Abandon Herndon Compressor Station.
Laton Station	Osborne County, Kansas	Abandon Laton Compressor Station.

The facilities listed in Table 2 are proposed to be constructed under Section 7(c) of the regulations. Note, numerous additional ancillary facilities and modifications would also be constructed.

TABLE 2

Name of facility	Location (county, State)	Proposed work
Glenrock Station	Converse County, Wyoming	Install one additional 500 HP electric compressor unit to existing Glenrock Compressor Station (powered by electric motors).
WIC interconnect	Converse County, Wyoming	Modify WIC delivery meter by adding additional meter run.
Yuma Station	Yuma County, Colorado	Install one additional 350 HP JGR/2 compressor unit to former Yuma Compressor Station site (powered by electric motor).
Sterling Ethanol Lateral	Logan County, Colorado	Construct 3 miles of new 4-inch natural gas pipeline lateral.
Yuma Station SSC Delivery Meter	Yuma County, Colorado	Construct new delivery meter station at former Yuma Compressor Station site.
Rockport Station Interconnect	Weld County, Colorado	Construct new SSC receipt point at the existing Rockport Compressor Station.
Rockport-Trailblazer Interconnect Lateral	Weld County, Colorado	Install approximately 150 feet interconnection pipe from Rockport discharge to interconnect with Trailblazer (TPC).
Adams Interconnect	Adams County, Nebraska	Expand interconnect with Trailblazer (TPC).
Trenton Ethanol Lateral	Hitchcock County, Nebraska and Rawlins County, Kansas.	Construct 22 miles of new 4-inch natural gas pipeline lateral.
NGPL Recipt Meters	Lincoln County, Kansas	Change delivery to receipt meters (reverse meter).
NNG Delivery Meter	Ottawa County, Kansas	Change to bidirectional meter.
Tescott Compressor Station	Ottawa County, Kansas	Construct new Compressor Station and related tie-in piping gas driven up to 14,200 HP (4 units at 3,550 HP each).
Tescott Compressor Station to NNG Delivery (Tescott Interconnection Line).	Ottawa County, Kansas	Install approximately 1 mile of 12-inch pipe from Tescott Compressor Station to NNG parallel to PXP.

KMIGT would abandon certain auxiliary facilities that were previously constructed under the authority of Section 2.55(a) of the Commission's Regulations, and construct additional auxiliary facilities pursuant to Section 2.55(a) as well.

The general location of the project facilities is shown in appendix 1.[1]

Non-Jurisdictional Facilities

KMPXP is planning to convert/construct the following non-jurisdictional facilities:

- Convert the 432 miles of pipeline abandoned by KMIGT to transport oil;
- Construct the 260-mile pipeline (Cushing Lateral) from Lincoln County, Kansas to Cushing, Oklahoma;
- Construct 4 to 11 pump stations along the existing Pony Express Pipeline (PXP); and
- Replace certain short pipe segments (spans, exposed stream crossings, etc.).

In addition, the planned crude oil pipeline would include approximately 35 new horizontal directional drill crossings at sensitive locations along the PXP. KMPXP plans to file applications with appropriate U.S. Army Corps of Engineers (USACE) districts by the end of 2012 for the proposed crude oil pipeline. Under Section 404 of the Clean Water Act, a permit would be required for activities such as crossing an intermittent or perennial stream or wetland with a pipeline or access road or placing temporary diversion structures in a waterway. As required, KMPXP would prepare a Section 404 pre-construction notification (PCN) for Colorado, Kansas, and Oklahoma for submittal to the USACE. The PCNs would also include documentation of coordination for Endangered Species Act compliance and Section 106 compliance. In addition, potential State permits are listed below that may be required from the State Engineer's Office, Water Quality Division, or Air Quality Division:

- 401 Water Quality Certification application;
- Stormwater Notice of Intent;
- Hydrostatic test water intake and discharge permit applications; and
- Air Quality Construction permit applications.

These non-jurisdictional facilities are not subject to the FERC's environmental review procedures. We have made a decision to not review these non-jurisdictional facilities in the EA. However, the EA will describe their location, status, and known environmental impacts, and a list of the responsible agencies. We are specifically seeking comment on this decision.

Land Requirements for Construction

Construction of the proposed facilities would disturb about 261.7 acres of land for the aboveground facilities and the pipeline. Following construction, KMIGT would maintain about 110.4 acres for permanent operation of the project's facilities including 64.3 acres for the aboveground facilities; the remaining acreage would be restored and revert to former uses. The proposed 22 miles of 4-inch-diameter pipeline beginning in Rawlins County Kansas and terminating in Hitchcock County, Nebraska would parallel and overlap the existing Pony Express Pipeline for its entire length, and approximately 0.4 miles of the pipeline would require new right-of-way. About 51 percent of the proposed 3 miles of 4-inch-diameter pipeline within Logan County, Colorado would parallel the existing PXP.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[2] to discover and address concerns the public may have about proposals. This process is referred to as "scoping." The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. We will consider all filed comments during the preparation of the EA.

In the EA, we will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- Land use;
- Water resources, fisheries, and wetlands;
- Cultural resources;
- Vegetation and wildlife;
- Air quality and noise;
- Endangered and threatened species;
- Public safety; and
- Alternatives.

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present our independent analysis of the issues. The EA will be available in the public record through eLibrary. Depending on the comments received during the scoping process, we may also publish and distribute the EA to the public for an allotted comment period. We will consider all comments on the EA before making our recommendations to the Commission. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section beginning on page 7.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate with us in the preparation of the EA.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with applicable State Historic Preservation Offices (SHPO), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[4] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPOs as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called "eLibrary" or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] "We," "us," and "our" refer to the environmental staff of the Commission's Office of Energy Projects.

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[4] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

based on a preliminary review of the proposed facilities and the environmental information provided by KMIGT. This preliminary list of issues may be changed based on your comments and our analysis.

- The project may impact wildlife habitat;
- The project may potentially spread noxious weeds and aquatic invasive species;
- The project may affect federally endangered or threatened species; and
- The project could potentially affect cultural resources; and
- Noise impacts may occur at noise sensitive areas from horizontal directional drilling activities and a new compressor station addition and existing compressor station modifications.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before October 29, 2012.

For your convenience, there are three methods which you can use to submit your comments to the Commission. In all instances please reference the project docket number (CP12–495–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov*.

(1) You can file your comments electronically using the *eComment* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings*. This is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You can file your comments electronically using the *eFiling* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings*. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on "*eRegister.*" You must select the type of filing you are making. If you are filing a comment on a particular project, please select "Comment on a Filing"; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If we publish and distribute the EA, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an "intervenor" which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the User's Guide under the "e-filing" link on the Commission's Web site.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site at *www.ferc.gov* using the "eLibrary" link. Click on the eLibrary link, click on "General Search" and enter the docket number, excluding the last three digits in the Docket Number field (i.e., CP12–495). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/esubscribenow.htm*.

Finally, public meetings or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: September 28, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–24567 Filed 10–4–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–2654–001]

World Digital Innovations; 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 World Digital Innovations' 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 October 18, 2012.

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 14 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: September 28, 2012.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2012–24606 Filed 10–4–12; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9738–8]

Ambient Air Monitoring Reference and Equivalent Methods: Designation of Three New Equivalent Methods

AGENCY: Environmental Protection Agency.

ACTION: Notice of the designation of three new equivalent methods for monitoring ambient air quality.

SUMMARY: Notice is hereby given that the Environmental Protection Agency (EPA) has designated, three new equivalent methods, one for measuring concentrations of $PM_{2.5}$, one for measuring concentrations of PM_{10}, and one for measuring concentrations of $PM_{10-2.5}$ in the ambient air.

FOR FURTHER INFORMATION CONTACT: Robert Vanderpool, Human Exposure and Atmospheric Sciences Division (MD–D205–03), National Exposure Research Laboratory, U.S. EPA, Research Triangle Park, North Carolina 27711. Email: *Vanderpool.Robert@epa.gov*.

SUPPLEMENTARY INFORMATION: In accordance with regulations at 40 CFR part 53, the EPA evaluates various methods for monitoring the concentrations of those ambient air pollutants for which EPA has established National Ambient Air Quality Standards (NAAQSs) as set forth in 40 CFR part 50. Monitoring methods that are determined to meet specific requirements for adequacy are designated by the EPA as either reference methods or equivalent methods (as applicable), thereby permitting their use under 40 CFR part 58 by States and other agencies for determining compliance with the NAAQSs.

The EPA hereby announces the designation of three new equivalent methods, one for measuring concentrations of $PM_{2.5}$, one for measuring concentrations of PM_{10}, and one for measuring concentrations of $PM_{10-2.5}$ in the ambient air. These designations are made under the provisions of 40 CFR Part 53, as amended on August 31, 2011 (76 FR 54326–54341).

The new equivalent methods are automated monitoring methods utilizing a measurement principle based on sample collection by filtration and analysis by beta radiation attenuation. The newly designated equivalent methods are identified as follows:

EQPM–0912–204, "Teledyne Model 602 Beta^{PLUS} Particle Measurement System" and "SWAM 5a Dual Channel Monitor" configured for 1-hour measurements of $PM_{2.5}$ by beta attenuation, on either a single (Line A or B) or both sampling lines (Line A and B) simultaneously, using 47 mm glass fiber filters, at a sample flow set to 16.67 liters/min and software version 05–02.07.63 or later and with an inlet system comprised of a PM_{10} pre-impactor inlet (based on European PM_{10} inlet design) combined with a BGI VSCC™ $PM_{2.5}$ cyclone separator. Operated in accordance with the Teledyne Model 602 Beta^{PLUS} Particle Measurement System Operation Manual.

EQPM–0912–205, "Teledyne Model 602 Beta^{PLUS} Particle Measurement System" and "SWAM 5a Dual Channel Monitor" configured for 1-hour measurements of PM_{10} by beta attenuation on a single sampling line (Line A or B, but not both together), with the standard, louvered US EPA PM_{10} size selective inlet specified in 40 CFR part 50 Appendix L, using 47 mm glass fiber filters, at a sample flow set to 16.67 liters/min and software version 05–02.07.63 or later. Operated in accordance with the Teledyne Model 602 Beta^{PLUS} Particle Measurement System Operation Manual."

EQPM–0912–206, "Teledyne Model 602 Beta^{PLUS} Particle Measurement System" and "SWAM 5a Dual Channel Monitor" configured for 1-hour measurements of PM_{10} and $PM_{2.5}$ by beta attenuation, with the standard, louvered US EPA PM_{10} size selective inlet specified in 40 CFR part 50 Appendix L on one channel (Line A or B) and with an inlet system comprised of a PM_{10} pre-impactor inlet (based on European PM_{10} inlet design) combined with a BGI VSCC™ $PM_{2.5}$ cyclone separator on the second channel (Line A or B, but always with PM_{10} on the opposite Line). The $PM_{10-2.5}$ mass measurement is performed using the resultant subtraction of PM_{10} minus $PM_{2.5}$. Operated in accordance with the Teledyne Model 602 Beta^{PLUS} Particle Measurement System Operation Manual.

Applications for the equivalent method determinations for these candidate methods were received by the EPA Office of Research and Development on April 16, 2012. The monitors are commercially available from the applicant, Teledyne Advanced Pollution Instrumentation, 9480 Carroll Park Drive, San Diego, CA 92121.

Test monitors representative of these methods have been tested in accordance with the applicable test procedures specified in 40 CFR part 53, as amended on August 31, 2011. After reviewing the results of those tests and other information submitted in the applications, EPA has determined, in accordance with Part 53, that these methods should be designated as equivalent methods. The information in the applications will be kept on file, either at EPA's National Exposure Research Laboratory, Research Triangle Park, North Carolina 27711 or in an approved archive storage facility, and will be available for inspection (with advance notice) to the extent consistent with 40 CFR part 2 (EPA's regulations implementing the Freedom of Information Act).

As designated equivalent methods, these methods are acceptable for use by states and other air monitoring agencies under the requirements of 40 CFR part 58, Ambient Air Quality Surveillance. For such purposes, the methods must be used in strict accordance with the operation or instruction manuals

associated with the methods and subject to any specifications and limitations (e.g., configuration or operational settings) specified in the applicable designated descriptions (see the identification of the methods above).

Use of the methods also should be in general accordance with the guidance and recommendations of applicable sections of the "Quality Assurance Handbook for Air Pollution Measurement Systems, Volume I," EPA/600/R–94/038a and "Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II, Ambient Air Quality Monitoring Program" EPA–454/B–08–003, December, 2008. Provisions concerning modification of such methods by users are specified under Section 2.8 (Modifications of Methods by Users) of Appendix C to 40 CFR part 58.

Consistent or repeated noncompliance should be reported to: Director, Human Exposure and Atmospheric Sciences Division (MD–E205–01), National Exposure Research Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Designation of these new equivalent methods is intended to assist the States in establishing and operating their air quality surveillance systems under 40 CFR part 58. Questions concerning the commercial availability or technical aspects of the methods should be directed to the applicant.

Jennifer Orme-Zavaleta,

Director, National Exposure Research Laboratory.

[FR Doc. 2012–24638 Filed 10–4–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9005–4]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements
Filed 09/24/2012 through 09/28/2012
Pursuant to 40 CFR 1506.9

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *http://www.epa.gov/compliance/nepa/eisdata.html.*

SUPPLEMENTARY INFORMATION: Starting October 1, 2012, EPA will not accept paper copies or CDs of EISs for filing purposes; all submissions on or after October 1, 2012 must be made through e-NEPA.

While this system eliminates the need to submit paper or CD copies to EPA to meet filing requirements, electronic submission does not change requirements for distribution of EISs for public review and comment. To begin using e-NEPA, you must first register with EPA's electronic reporting site—*https://cdx.epa.gov/epa_home.asp.*

EIS No. 20120309, Draft EIS, USACE, CA, SunCreek Specific Plan Project, Development of Plan Area for Mixed Uses, Sacramento County, CA, Comment Period Ends: 11/19/2012, Contact: Lisa Gibson 916–557–5288.

EIS No. 20120310, Final EIS, BLM, UT, Sigurd to Red Butte No. 2 345kV Transmission Project, Issuance of Right-of-Way Grant by BLM and Special-Use-Permit by AFS, Sevier, Millard, Iron, Beaver, and Washington Counties, UT, Review Period Ends: 11/05/2012, Contact: Tamara Gertsch 307–775–6115.

EIS No. 20120311, Draft Supplement, FHWA, WA, I–90 Snoqualmie Pass East, Avalanche Structures, Kittitas County, WA, Comment Period Ends: 11/19/2012, Contact: Liana Liu 360–753–9553.

EIS No. 20120312, Final EIS, USFS, NV, Geothermal Leasing on the Humboldt-Toiyabe National Forest, To Facilitate the Development and Production of Geothermal Energy, Ely, Austin, Tonopah and Bridgeport Ranger Districts, NV, Review Period Ends: 11/05/2012, Contact: Keith Whaley 760–932–7070.

EIS No. 20120313, Final EIS, FHWA, WA, Cattle Point Road Realignment Project, To Maintain Vehicular, Bicycle, and Pedestrian Road Access, San Juan Island National Historical Park and Cattle Point Natural Resources Conservation Area, San Juan County, WA, Review Period Ends: 11/05/2012, Contact: Jerald Weaver 360–378–2223.

EIS No. 20120314, Draft EIS, WAPA, WY, Hermosa West Wind Energy Project, To Approve or Deny an Interconnection Request, Albany County, WY, Comment Period Ends: 11/19/2012, Contact: Mark Wieringa 720–962–7448.

EIS No. 20120315, Draft EIS, TVA, TN, Dam Safety Modifications at Cherokee, Fort Loudoun, Tellico, and Watts Bar Dams, Grainger, Jefferson, Loudoun, Rhea, and Meigs Counties, TN, Comment Period Ends: 11/19/2012, Contact: Charles R. Nicholson 865–632–3582.

EIS No. 20120316, Draft EIS, NIH, MD, National Institutes of Health Animal Center Draft Master Plan, Montgomery County, MD, Comment Period Ends: 12/04/2012, Contact: Valerie Nottingham 301–496–7775.

Amended Notices

EIS No. 20120238, Draft EIS, GSA, NY, Public Sale of Plum Island Animal Disease Center, Long Island Sound, Suffolk County, NY, Comment Period Ends: 10/26/2012, Contact: John Dugan 617–565–5700.

Revision to FR Notice Published 07/20/2012; Extending Comment Period from 09/20/2012 to 10/26/2012.

Dated: October 2, 2012.

Cliff Rader,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2012–24630 Filed 10–4–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 ("PRA"), 44 U.S.C. 3501 *et seq.*, the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the renewal of two existing information collections, as required by the PRA. On July 30, 2012 (77 FR 44617), the FDIC solicited public comment for a 60-day period on renewal of the following information collections: Activities and Investments of Insured State Banks (OMB No. 3064–0111) and Privacy of Consumer Financial Information (OMB No. 3064–0136). No comments were received. Therefore, the FDIC hereby gives notice

of submission of its request for renewal to OMB for review.

DATES: Comments must be submitted on or before November 5, 2012.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html.*
- *Email: comments@fdic.gov.* Include the name of the collection in the subject line of the message.
- *Mail:* Leneta G. Gregorie (202–898–3719), Counsel, Room F–1064, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Leneta Gregorie, at the FDIC address above.

SUPPLEMENTARY INFORMATION:

Proposal To Renew the Following Currently Approved Collections of Information

1. *Title:* Activities and Investments of Insured State Banks.

OMB Number: 3064–0111.

Form Numbers: None.

Frequency of Response: On occasion.

Affected Public: Insured state nonmember banks.

Estimated Number of Respondents: 110.

Estimated Time per Response: 8 hours.

Total Annual Burden: 880 hours.

General Description of Collection: With certain exceptions, section 24 of the FDI Act (12 U.S.C. 1831a) limits the direct equity investments of state chartered banks to equity investments that are permissible for national banks. In addition, the statute prohibits an insured state bank from directly engaging as principal in any activity that is not permissible for a national bank or indirectly through a subsidiary in an activity that is not permissible for a subsidiary of a national bank unless the bank meets its minimum capital requirements and the FDIC determines that the activity does not pose significant risk to the Deposit Insurance Fund. The FDIC can make such a determination for exception by regulation or by order. The FDIC's implementing regulation for section 24 is 12 CFR Part 362. It details the activities that insured state nonmember banks or their subsidiaries may engage in, under certain criteria and conditions, and identifies the information that banks must furnish to the FDIC in order to obtain the FDIC's approval or non-objection.

2. *Title:* Privacy of Consumer Financial Information.

OMB Number: 3064–0136.

Form Numbers: None.

Frequency of Response: On occasion.

Affected Public: Insured state nonmember banks, state savings & loan institutions, consumers.

Estimated Number of Respondents: Initial notice, 208; annual notice and change in terms 5,156; opt-out notice, 866; consumer opt-out/status update, 212,432.

Estimated Average Time per Response: Initial notice, 80 hours; annual notice and change in terms, 8 hours; opt-out notice, 8 hours; consumer opt-out/status update, 30 minutes.

Estimated Number of Responses: 218,662.

Total Annual Burden: 171,032 hours.

General Description of Collection: The elements of this collection are required under section 504 of the Gramm-Leach-Bliley Act, Public Law 106–102. The collection mandates notice requirements and restrictions on a financial institution's ability to disclose nonpublic personal information about consumers to nonaffiliated third parties.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 1st day of October, 2012.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2012–24551 Filed 10–4–12; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10 a.m. on Tuesday, October 9, 2012, to consider the following matters:

Summary Agenda

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' Meetings.

Summary reports, status reports, reports of the Office of Inspector General, and reports of actions taken pursuant to authority delegated by the Board of Directors.

Memorandum and resolution re: Final Rule: Enforcement of Subsidiary and Affiliate Contracts by the FDIC as Receiver of a Covered Financial Company.

Discussion Agenda

Memorandum and resolution re: Stress Testing Requirements for Certain Banks: Final Rule to Implement Section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Memorandum and resolution re: Final Rule: Assessments, Large Bank Pricing System.

Memorandum re: Update of Projected Deposit Insurance Fund Losses, Income, and Reserve Ratios for the Restoration Plan.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW., Washington, DC

This Board meeting will be Webcast live via the Internet and subsequently made available on-demand approximately one week after the event. Visit *http://www.vodium.com/goto/fdic/boardmeetings.asp* to view the event. If you need any technical assistance, please visit our Video Help page at: *http://www.fdic.gov/video.html.*

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call 703–562–2404 (Voice) or 703–649–4354 (Video Phone) to make necessary arrangements.

Requests for further information concerning the meeting may be directed

to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at 202–898–7043.

Dated: October 2, 2012.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2012–24683 Filed 10–3–12; 11:15 am]

BILLING CODE P

FEDERAL DEPOSIT INSURANCE CORPORATION

Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation has been Appointed Either Receiver, Liquidator, or Manager

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Update listing of financial institutions in liquidation.

SUMMARY: Notice is hereby given that the Federal Deposit Insurance Corporation (Corporation) has been appointed the sole receiver for the following financial institutions effective as of the Date Closed as indicated in the listing. This list (as updated from time to time in the **Federal Register**) may be relied upon as "of record" notice that the Corporation has been appointed receiver for purposes of the statement of policy published in the July 2, 1992 issue of the **Federal Register** (57 FR 29491). For further information concerning the identification of any institutions which have been placed in liquidation, please visit the Corporation Web site at *ww.fdic.gov/bank/individual/failed/banklist.html* or contact the Manager of Receivership Oversight in the appropriate service center.

Dated: October 1, 2012.

Federal Deposit Insurance Corporation.

Pamela Johnson,

Regulatory Editing Specialist.

INSTITUTIONS IN LIQUIDATION

[In alphabetical order]

FDIC Ref. No.	Bank name	City	State	Date closed
10459	First United Bank	Crete	IL	9/28/2012

[FR Doc. 2012–24548 Filed 10–4–12; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL HOUSING FINANCE AGENCY

[No. 2012–N–14]

Advisory Bulletin on Collateralization of Advances and Other Credit Products Provided by Federal Home Loan Banks to Insurance Company Members

AGENCY: Federal Housing Finance Agency.

ACTION: Notice with request for comments.

SUMMARY: The Federal Housing Finance Agency (FHFA) is requesting comments on a proposed Advisory Bulletin which would set forth standards to guide agency staff in its supervision of secured lending to insurance company members by the Federal Home Loan Banks (Banks).

DATES: Written comments must be received on or before December 4, 2012.

ADDRESSES: You may submit your comments, identified by FHFA notice number 2012–N–14, by any of the following methods:

- *Email:* Comments to Alfred M. Pollard, General Counsel may be sent by email to *RegComments@fhfa.gov*. Please include "2012–N–14" in the subject line of the message.
- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments. If you submit your comment to the *Federal eRulemaking Portal*, please also send it by email to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by FHFA. Please include "2012–N–14" in the subject line of the message.
- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Alfred M. Pollard, General Counsel, Attention: Comments/2012–N–14, Federal Housing Finance Agency, Eighth Floor, 400 7th Street SW., Washington, DC 20024.
- *Hand Delivered/Courier:* The hand delivery address is: Alfred M. Pollard, General Counsel, Attention: Comments/2012–N–14, Federal Housing Finance Agency, Eighth Floor, 400 7th Street SW., Washington, DC 20024. The package should be logged at the FHFA Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Neil Crowley, Deputy General Counsel, Office of General Counsel, *Neil.Crowley@fhfa.gov*, (202) 649–3055; Joseph A. McKenzie, Associate Director, Division of Bank Regulation, Bank Analysis Branch, *Joseph.McKenzie@fhfa.gov*, (202) 649–3270; or Thomas Doolittle, Senior Financial Analyst, Division of Bank Regulation, Bank Analysis Branch, *Thomas.Doolittle@fhfa.gov*, (202) 649–3273 (these are not toll-free numbers), Federal Housing Finance Agency, 400 7th Street SW., Washington, DC 20024. The telephone number for the Telecommunications Device for the Hearing Impaired is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Comments

FHFA invites comments on all aspects of this Notice and the attached Advisory Bulletin. Copies of all comments will be posted without change, including any personal information you provide, such as your name, and address (mailing or email), and telephone numbers, on FHFA's Internet Web site at *http://www.fhfa.gov*. In addition, copies of all comments received will be available for examination by the public on business days between the hours of 10 a.m. and 3 p.m. at the Federal Housing Finance Agency, Eighth Floor, 400 7th Street SW., Washington, DC 20024. To make an appointment to inspect comments, please call the Office of General Counsel at (202) 649–3084.

II. Background

The Federal Home Loan Bank System consists of twelve regional Banks and the Office of Finance (OF). The Banks are instrumentalities of the United States organized under the Federal Home Loan Bank Act (Bank Act).[1] The Banks are cooperatives; only an institution that is a member of a Bank

[1] *See* 12 U.S.C. 1423, 1432(a).

may purchase its capital stock, and only members or certain eligible non-member housing associates (such as state housing finance agencies) may obtain access to secured loans, known as advances, or other products provided by a Bank.[2] Each Bank is managed by its own board of directors and serves the public interest by enhancing the availability of residential mortgage and community lending credit through its member institutions.[3] Generally, any federally insured depository institution (*i.e.*, a commercial bank, thrift, or credit union) or state-regulated insurance company, or any entity certified as a Community Development Financial Institution (CDFI) by the United States Department of Treasury, may become a member of a Bank if it satisfies certain criteria and purchases a specified amount of the Bank's capital stock.[4]

Section 10(a) of the Bank Act authorizes each Bank to make secured advances to its members, each of which must be fully secured by certain types of eligible collateral enumerated in the statute.[5] Part 1266 of FHFA's regulations implements and expands upon the statutory requirements pertaining to Bank advances by addressing, among other things: the types and amounts of collateral that a Bank may or must accept when making advances; the priority of Bank claims to such collateral in relation to other creditors; and requirements regarding the valuation and verification of the existence of pledged collateral.[6]

FHFA is an independent agency of the Federal government that is responsible for the supervision and oversight of the Banks, as well as Fannie Mae and Freddie Mac. The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Safety and Soundness Act) invests the Director of FHFA with general regulatory authority over those regulated entities and charges him with ensuring that they operate in a safe and sound manner, comply with applicable laws, and carry out their respective policy missions.[7] The Director is authorized to exercise whatever incidental powers are necessary or appropriate to fulfill his duties and responsibilities in overseeing the regulated entities, and to issue any regulations, guidelines or orders as are necessary to carry out his duties.[8] Advisory Bulletins are documents through which the agency provides guidance to its regulated entities regarding particular supervisory issues. Although Advisory Bulletins do not have the force of a regulation or an order, they reflect the position of FHFA staff on the particular issues addressed and are followed by FHFA staff in carrying out the agency's supervisory responsibilities.

III. The Advisory Bulletin on Insurance Company Collateral

Lending to insurance companies exposes the Banks to a number of risks that are not associated with advances to their insured depository institution members. In large part, these risks arise from the fact that, unlike the Banks' commercial bank, thrift and credit union members, insurance companies are regulated at the state level. In dealing with its insurance company members each Bank must understand multiple statutory and regulatory regimes and must assess how its interests may be affected by the variations between those regimes. This is made more difficult by the fact that there is little precedent to indicate how the insurance commissioner in any given state would deal with repayment of the member's outstanding advances or with the Bank's security interest in advances collateral in the event of a failure of an insurance company member. In some states a Bank might be required to liquidate collateral in order to obtain repayment of its advances to a failed insurance company, which introduces additional uncertainties about its ability to be made whole.

In addition, the financial statements of insurance companies are based upon statutory accounting principles that are specific to insurance companies, as opposed to the generally accepted accounting principles in the United States on which the financials of most other domestic companies and all federally insured depository institutions are based. While the statutory accounting principles adopted by each state are similar, required reporting practices and reporting frequencies, as well as data definitions and data formats may be quite different from state to state.

Over the last several years, lending to insurance company members has come to represent an increasingly larger portion of the Banks' overall business, and several Banks are actively targeting this member segment. Although insurance companies comprise only about 3.3 percent of total Bank system membership, 12.6 percent of total outstanding advances were to insurance companies as of December 31, 2011—up from 8.7 percent of total advances as of December 31, 2009. This growth, combined with the unique risks to which the Banks are exposed in lending to insurance companies, has led FHFA to focus more intently upon the effective supervision of Banks' credit transactions with their insurance company members.

The attached Advisory Bulletin sets forth a series of considerations that FHFA proposes to use in monitoring these transactions. It focuses upon principles that would be used by agency supervisory staff to assess each Bank's ability to evaluate the financial health of its insurance company members and the quality of their eligible collateral, as well as the extent to which the Bank has a first-priority security interest in that collateral. The risks inherent in lending to insurance companies, which are summarized above, are addressed more thoroughly in the Advisory Bulletin. FHFA seeks comments on all aspects of the Advisory Bulletin, but is especially interested in receiving comments about the most appropriate method for Banks to obtain "control" of securities collateral and to otherwise obtain a first-priority perfected security interest under the Uniform Commercial Code in any types of collateral pledged by its insurance company members. FHFA is also interested in receiving comments on the use of funding agreements as a means of documenting advances and whether the Banks have confirmed under state law that a Bank would be recognized as a secured creditor with a property interest in the collateral that is pledged to the Bank under a funding agreement. In addition, FHFA welcomes comments on whether it should consider establishing specific and uniform standards for making advances to insurance companies.

[2] *See* 12 U.S.C. 1426(a)(4), 1430(a), 1430b.

[3] *See* 12 U.S.C. 1427.

[4] *See* 12 U.S.C. 1424; 12 CFR part 1263.

[5] Section 10(a)(3) of the Bank Act enumerates five categories of collateral that are eligible to secure Bank advances: (1) Current whole first mortgage loans on improved residential property and securities representing a whole interest in such mortgages; (2) securities that are issued, guaranteed, or insured by the United States Government, or any agency thereof; (3) deposits of a Bank; (4) other real-estate related collateral acceptable to the Bank if it has a readily ascertainable value and the Bank can perfect its security interest in the collateral; and (5) (for certain smaller insured depository institutions) secured loans for small business, agriculture, or community development activities or securities representing a whole interest in such secured loans. *See* 12 U.S.C. 1430(a)(3).

[6] *See* 12 CFR part 1266.

[7] *See* 12 U.S.C. 4511(b); 12 U.S.C. 4513(a).

[8] *See* 12 U.S.C. 4513(a)(2), 4526(a).

IV. Consideration of Differences Between the Banks and the Enterprises

Section 1201 of the Housing and Economic Recovery Act of 2008 amended the Safety and Soundness Act to add a new section 1313(f), which requires the Director of FHFA, when promulgating regulations or taking any other formal or informal action of general applicability and future effect relating to the Banks, to consider the differences between the Banks and the Enterprises (Fannie Mae and Freddie Mac) as they relate to: The Banks' cooperative ownership structure; the mission of providing liquidity to members; the affordable housing and community development mission; their capital structure; and their joint and several liability on consolidated obligations.[9] The Director also may consider any other differences that are deemed appropriate. In preparing the appended Advisory Bulletin, FHFA considered the differences between the Banks and the Enterprises as they relate to the above factors, and determined that the guidance set forth therein is appropriate.

[9] *See* 12 U.S.C. 4513(f).

Dated: October 1, 2012.

Edward J. DeMarco,

Acting Director, Federal Housing Finance Agency.

BILLING CODE 8070–01–P

ADVISORY BULLETIN 2012-AB-xx

September [], 2012

ADVISORY BULLETIN 2012-AB-0X

COLLATERALIZATION OF ADVANCES AND OTHER CREDIT PRODUCTS PROVIDED BY FEDERAL HOME LOAN BANKS TO INSURANCE COMPANY MEMBERS

This Advisory Bulletin (AB-2012- 0X) applies only to the Federal Home Loan Banks.

Introduction and Purpose

Business with insurance companies represents an increasing portion of advances and other credit products for a number of Federal Home Loan Banks (FHLBanks). This bulletin sets forth the principles that the Federal Housing Finance Agency (FHFA) and the FHFA Division of Federal Home Loan Bank Regulation will use to evaluate an FHLBank's lending activities with insurance companies, including collateralization of advances and other credit products provided to insurance company members of the FHLBanks.

Background

Insurance companies provide protection against loss from the risk from identified events occurring or discovered within a specified period. Insurance is a unique product in that the ultimate cost to the insurance company may be unknown until long after revenues, through premiums, are received. Insurance companies must estimate future claims obligations and maintain reserves to meet the obligations that materialize. Typically, insurance company financials reflect estimates of future claims and claim estimates can change unexpectedly due to large, unforeseen events or litigation in certain lines of business.

Statutory Accounting Principles (SAP). Insurance companies file an annual statement, prepared on the basis of Statutory Accounting Principles (SAP), with each state in which they are licensed as well as with the National Association of Insurance Commissioners (NAIC). The annual statements filed with the regulatory authorities are used to monitor the

financial condition of insurance companies in the periods between examinations by state or zone auditors (insurance companies are usually examined once every three to five years).

The NAIC codified SAP in the *Accounting Practices and Procedures Manual.* The insurance laws and regulations of the states require insurance companies domiciled in the states to comply with the guidance provided in that manual except as prescribed or permitted by state law. SAP generally reflects a liquidating rather than going concern basis of accounting. For example, SAP requires that deferred policy acquisition costs be expensed immediately instead of matched against the premiums as they are earned and recognized in income. Accordingly, performance measures calculated using SAP numbers typically appear less favorable than those prepared using GAAP numbers.

Risk Characteristics Associated with Lending to Insurance Companies. FHLBanks typically face risks lending to insurance companies that differ from those associated with lending to federally insured depository institutions. The challenges associated with lending to insurance companies include:

- Potential delay or inability of an FHLBank to commence or continue actions against an insurance company, including liquidating collateral, which could result from a stay imposed by court order or applicable receivership law;
- A preference period (assuming a liquidation) of potentially up to one year in some states;
- Different approaches among states to insurance company supervision and the liquidation or rehabilitation of failed insurance companies;
- Potential ambiguities in insurance laws that could result in an insurance commissioner favoring insured parties over the secured creditors;
- State-by-state variation in SAP and reporting practices, including data definitions, reporting frequencies, and data formats;
- Lack of judicial consideration of how the Bank Act § 10(e) "super lien" would interact with various federal and state laws governing insurance companies; and
- A potentially longer rehabilitation or sale process for a failed insurer, particularly a life insurance company, compared to a failed insured depository.

Guidance

The first line of defense to ensure repayment of an advance or other credit product is the financial health of the member, irrespective of whether the member is a depository institution or an insurance company. The second line of defense is the quality of the collateral and the extent to which the FHLBank has a first-priority security interest in the collateral.

In assessing an FHLBank's lending to insurance companies and collateral position with insurance company members, FHFA and its Division of Federal Home Loan Bank Regulation will evaluate, as appropriate, the following:

- The level of the FHLBank's risk exposure to insurance companies in relation to its capital structure and retained earnings.

- Whether, for each state in which the FHLBank has insurance company members, the FHLBank has recent opinions (or updates of opinions) from competent local counsel addressing the ability of an insurance company to become a member of an FHLBank, to purchase FHLBank stock, to borrow, and to pledge collateral for its borrowings.

- Whether the manner in which the FHLBank proposes to make advances to its insurance company members would be in compliance with applicable state insurance code provisions governing the insurance company's authority to borrow and grant security interests in its assets.

- Whether the FHLBank has an established documented analytical framework and procedures for assessing the creditworthiness of insurance company members at least quarterly using both internal and third-party sources. Whether the FHLBank's procedures differentiate insurance companies that lay off most of their exposure to a single reinsurance company and, if so, whether the FHLBank looks through to the strength of the reinsurance company.

- Whether the FHLBank has experienced staff trained to analyze SAP and GAAP financial statements of insurance companies to assess their financial condition and creditworthiness.

- Whether the FHLBank "controls" pledged securities collateral and any proceeds from the liquidation of the collateral for the purposes of the Uniform Commercial Code (UCC), as enacted by the laws of the appropriate state and has a first priority perfected security interest in that collateral.

- Whether the FHLBank has evaluated and documented the methodology used to establish haircuts for insurance company collateral. In particular, whether the relative risk of failure of an insurer has been taken into account (such as a tiered haircut methodology based upon credit quality). An FHLBank should have objective standards to measure credit quality and should be prepared to take further action, if warranted, to protect its interests in the case of default.

- Whether the FHLBank has documented procedures for obtaining market or fair value estimates of securities collateral on at least a monthly basis. Whether the FHLBank uses more than one pricing service and how it resolves discrepancies among valuation estimates.

- Whether the FHLBank accepts commercial real estate (CRE) loans as collateral and, if so, the extent to which the FHLBank:
    - Obtains a first priority security interest in CRE loan collateral by taking physical possession of the note;
    - Has documented procedures and experienced staff to collect and analyze pertinent information on the quality of the CRE loan collateral on a regular basis;
    - Has documented procedures for obtaining market or fair value estimates of loan collateral regularly and periodically; and
    - Uses a pricing service and benchmarks the service regularly.

- Whether the FHLBank uses market values in excess of book values when assessing collateral and, if so, whether it uses haircuts appropriately to account for price volatility.

- Whether the FHLBank analyzes the potential for market-value depreciation in cases in which holding periods are longer than expected and:
    - Researches and documents the potential for a longer-than-expected holding period; and
    - Considers in its analysis the consequences of a legal stay on the liquidation of collateral of an insurance company.

- Whether the FHLBank has a written collateral liquidation policy for insurance company collateral and has identified resources and developed a contingency plan to liquidate collateral if necessary.

- Whether the FHLBank has established policies related to lending to captive insurance companies that take into account the extent of their insurance activities and whether or not they are affiliated with entities that are subject to regimes of "inspection and regulation" comparable to those of insured depositories or operating insurance companies.

- Whether the FHLBank has been in contact with the state insurance regulator in each state where it has an insurance company member to establish an effective understanding with respect to the prudential operations of the insurance company.

- Whether the FHLBank has established relationships with state insurance regulators to reduce the likelihood of disagreements or misunderstandings regarding the FHLBank's access to collateral in the event of an insurance company failure or rehabilitation.

- Whether an insurance company in a particular state has the authority to enter into funding agreements and the authority to pledge collateral to support its obligations under the funding agreements such that the FHLBank would be recognized as a secured creditor with a first priority security interest in the collateral and ranks ahead of the claims of policy holders.

Principal Contacts

Joseph A. McKenzie, Associate Director, (202) 649-3270, Joseph.McKenzie@fhfa.gov
Thomas Doolittle, Senior Financial Analyst, (202) 649-3273, Thomas.Doolittle@fhfa.gov

An Advisory Bulletin is a Federal Housing Finance Agency staff document that provides guidance to Fannie Mae, Freddie Mac, the Federal Home Loan Banks, and the FHLBanks' Office of Finance regarding particular supervisory issues. Although an Advisory Bulletin does not have the force of a regulation or an order, it does reflect the position of the Federal Housing Finance Agency staff on the particular issue, and will be followed by examination staff. Advisory Bulletins are effective upon issuance.

[FR Doc. 2012–24639 Filed 10–4–12; 8:45 am]
BILLING CODE 6070–01–C

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 22, 2012.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street, NE., Atlanta, Georgia 30309:

1. *Guido Edwin Hinojosa Cardoso,* La Paz, Bolivia; to voting shares of Anchor Commercial Bank, Juno Beach, Florida.

Board of Governors of the Federal Reserve System, October 2, 2012.

Margaret McCloskey Shanks,

Associate Secretary of the Board.

[FR Doc. 2012–24619 Filed 10–4–12; 8:45 am]
BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 2, 2012.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *BBJ Incorporated,* Ord, Nebraska; to merge with City National Bancshares, Inc., and thereby indirectly acquire CNB Community Bank, both in Greeley, Nebraska.

B. Federal Reserve Bank of San Francisco (Kenneth Binning, Vice President, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *Grandpoint Capital, Inc.,* Los Angeles, California; to acquire 100 percent of the voting shares of California Community Bank, Escondido, California.

Board of Governors of the Federal Reserve System, October 2, 2012.

Margaret McCloskey Shanks,

Associate Secretary of the Board.

[FR Doc. 2012–24620 Filed 10–4–12; 8:45 am]
BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 2, 2012.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. *City Holding Company,* Cross Lanes, West Virginia; to acquire 100 percent of the voting securities of Community Financial Corporation, and thereby indirectly acquire voting shares of Community Bank, both in Staunton, Virginia, and thereby engage in operating a savings association, pursuant to section 225.28(b)(4)(ii).

Board of Governors of the Federal Reserve System, October 2, 2012.

Margaret McCloskey Shanks,

Associate Secretary of the Board.

[FR Doc. 2012–24621 Filed 10–4–12; 8:45 am]
BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of the Assistant Secretary for Health, Statement of Organization, Functions, and Delegations of Authority

Part A, Office of the Secretary, Statement of Organization, Function, and Delegation of Authority for the U.S. Department of Health and Human Services is being amended at Chapter AC, Office of the Assistant Secretary for Health (OASH), as last amended at 77 FR 2012–12173, dated May 18, 2012; 75 FR 53304–05, dated August 31, 2010; 72 FR 58095–96, dated October 12, 2007; 69 FR 660–661, dated January 6, 2004; 68 FR 70507–10, dated December 18, 2003; and 67 FR 71568–70, dated December 2, 2002. The amendment reflects the realignment of personnel oversight, administration and management functions for the U.S. Public Health Service (PHS) Commissioned Corps in the OASH. Specifically, it transfers functions performed by the Office of the Assistant Secretary for Administration, Program Support Center, Administrative Operations Service, Office of

Commissioned Corps Support Services to the Office of the Surgeon General (ACM). The changes are as follows:

I. Under Part A, Chapter AC, Office of the Assistant Secretary for Health, make the following changes:

A. Under Section AC.20, Functions, "I. Office of Surgeon General (ACM), Section ACM.20 Functions, (c) Division of Commissioned Corps Personnel and Readiness (ACM2), 3. Assignments & Career Management Branch (ACM23)" add the following functions, beginning with (13) through (22):

3. Assignments and Career Management Branch (ACM23). (13) Administers a payroll system for active duty Commissioned Corps officers of basic pay, allowances, and special or incentive pay in coordination with the Departments of Defense, Veterans Affairs, and Treasury; (14) Administers a pay system for retired Commissioned Corps officers and survivor annuitants in coordination with the Departments of Veterans Affairs and Treasury; (15) Administrative management of active duty Commissioned Corps officer healthcare and support for healthcare authorization and access to care; (16) Provides pre-retirement counseling, conducts retirement boards, determines eligibility for retirement, processes retirements, and recalls retirees to active duty; (17) Administration of periodic, separation and retirement health evaluations; (18) Review and award of Combat-Related Special Pay, Servicemembers' Group Life Insurance Traumatic Injury Protection Program, and Line of Duty determinations; (19) Management and support of ongoing medical and behavioral health challenges among active duty officers; (20) Management of fitness for duty and disability evaluations and determinations; (21) Administration of medical waiver evaluations and issuances; and (22) Management of Medical Evaluation and Appeal Boards.

B. Under Section AC.20, Functions, "I. Office of Surgeon General (ACM), Section ACM.20 Functions, (e) Division of Systems Integration (ACM6), add the following functions, beginning with (4) through (9):

(e) Division of Systems Integration (ACM6). (4) Certifies monthly Commissioned Corps payroll to Treasury; (5) Administers supplemental and third-party payments to Treasury; (6) Reviews payroll reports, identifies potential payroll-related issues, and validates the monthly Commissioned Corps payroll; (7) Provides data reporting and data extracts to HHS and other governmental organizations and agencies; (8) Maintains Commissioned Corps personnel data systems and ensures integrity and availability of personnel and operational data; and (9) Maintains Commissioned Corps Web sites and ensures 508 compliance.

II. *Continuation of Policy:* Except as inconsistent with this reorganization, all statements of policy and interpretations with respect to the Commissioned Corps of the PHS heretofore issued and in effect prior to this reorganization are continued in full force and effect.

III. *Delegations of Authority.* Directives and orders of the Secretary, Assistant Secretary for Health, or Surgeon General and all delegations and re-delegations of authority previously made to officials and employees of the affected organizational components will continue in them or their successors pending further re-delegation, provided they are consistent with this reorganization. All delegated authorities associated with or necessary to administer, operate, and manage transferred entities affected by this reorganization are transferred to the Assistant Secretary for Health and may be re-delegated.

IV. *Funds, Personnel, and Equipment.* Transfer of organizations and functions affected by this reorganization shall be accompanied by direct and support funds, positions, personnel, records, equipment, supplies, and other resources.

Dated: September 21, 2012.

E.J. Holland, Jr.,

Assistant Secretary for Administration.

[FR Doc. 2012–24564 Filed 10–4–12; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: "Development of a Health Information Rating System (HIRS)." In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3521, AHRQ invites the public to comment on this proposed information collection.

DATES: Comments on this notice must be received by December 4, 2012.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at *doris.lefkowitz@AHRQ.hhs.gov.*

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

Development of a Health Information Rating System (HIRS)

Over the past several years, low health literacy has been identified as an important health care quality issue. Healthy People 2010 defined health literacy as "the degree to which individuals have the capacity to obtain, process, and understand basic health information and services needed to make appropriate health decisions." In 2003, the Institute of Medicine identified health literacy as a cross-cutting area for health care quality improvement. According to the 2003 National Assessment of Adult Literacy, only 12 percent of adults have proficient health literacy.

Persons with limited health literacy face numerous health care challenges. They often have a poor understanding of basic medical vocabulary and health care concepts. A study of patients in a large public hospital showed that 26 percent did not understand when their next appointment was scheduled and 42 percent did not understand instructions to "take medication on an empty stomach." In addition, limited health literacy leads to more medication errors, more and longer hospital stays, and a generally higher level of illness, resulting in an estimated excess cost for the US health care system of $50 billion to $73 billion per year.

Health care providers can improve their patients' health outcomes by delivering the right information at the right time in the right way to help patients prevent or manage chronic conditions such as diabetes, cardiovascular disease, hypertension, and asthma. Electronic health records (EHRs) can help providers offer patients the right information at the right time during office visits, by directly connecting patients to helpful resources on treatment and self-management. EHRs can also facilitate clinicians' use of patient health education materials in the clinical encounter. However, health education materials delivered by EHRs,

when available, are rarely written in a way that is understandable and actionable for patients with basic or below basic health literacy—an estimated 77 million people in the United States.

In order to fulfill the promise of EHRs for all patients, especially for persons with limited health literacy, clinicians should have a method to determine how easy a health education material is for patients to understand and act on, have access to a library of easy-to-understand and actionable materials, understand the relevant capabilities and features of EHRs to provide effective patient education, and be made aware of these resources and information. Therefore, AHRQ developed a project that includes the following four major tasks: (1) Develop a valid and reliable Health Information Rating System (HIRS), (2) create a library of patient health education materials, (3) review EHR's patient education capabilities and features, and (4) educate EHR vendors and users. This project relates to the first task only.

As a first step, AHRQ has developed a draft HIRS using the following rigorous multistage approach that draws upon existing rating systems, the evidence base in the literature, and the real-world expertise and experience of a Technical Expert Panel (TEP):

(1) Gather and synthesize evidence on existing rating systems and literature on consumers' understanding of health information. Seek TEP review of the summary of existing health information rating systems. Develop item pool for each domain—understandability and actionability, defined as follows:

- Health education materials are understandable when consumers of diverse backgrounds and varying degrees of health literacy can process and explain key messages.
- Health education materials are actionable when consumers of diverse backgrounds and varying levels of health literacy can identify what they can do based on the information presented.

(2) Assess the face and content validity of the domains (i.e., understandability and actionability) with the TEP.

(3) Assess the inter-rater reliability of the HIRS on English-language health education materials. Seek TEP review of results and provide guidance on how to address discrepancies.

The draft HIRS was used by AHRQ researchers to rate 2 sets of patient health education materials: A set of 6 education materials related to asthma and a set of 6 education materials related to colonoscopy. Each of these 12 health education materials received a score for their understandability and actionability. Some of the materials received good scores on the draft HIRS, meaning that the researchers considered them to be understandable or actionable, and some materials received poor scores on the draft HIRS, indicating that the materials had low understandability or low actionability.

The final stage of developing a reliable and valid rating system to assess the understandability and actionability of health education materials is testing with consumers.

This project has the following goals:

(1) To assess the construct validity of AHRQ's draft HIRS. The 12 rated health education materials will be tested with a total of 48 English-speaking consumers. Consumers will review materials and be asked questions to test whether they understand the materials and whether they know what actions to take. The outcome of this testing will be an HIRS that will offer professionals (e.g., clinicians, health librarians, etc.) a systematic method to evaluate and compare the understandability and actionability of health education materials. Since actionability is a new domain, we are testing it distinct from understandability though there is a theoretical relationship between the domains as we have defined them; that is, a material cannot be actionable if it is not first understandable. So actionability may in fact be a sub-domain of understandability. Besides assessing the construct validity, consumer testing will help us determine how to revise and improve the HIRS.

(2) Finalize the HIRS and instructions for users, and make them publicly available on AHRQ's Web site.

This study is being conducted by AHRQ through its contractor, Abt Associates, pursuant to AHRQ's statutory authority to conduct and support research on health care and on systems for the delivery of such care, including activities with respect to the quality, effectiveness, efficiency, appropriateness and value of health care services and with respect to quality measurement and improvement. 42 U.S.C. 299a(a)(1) and (2).

Method of Collection

To achieve the goals of the project the following data collections and activities will be implemented:

(1) Demographic Questionnaire—The demographic questionnaire will collect basic demographic information about each participant. This data will allow the analysis to detect differences in health literacy by population subgroups.

(2) Short Test of Functional Health Literacy in Adults (S–TOFHLA) Questionnaire—The S–TOFHLA will be administered once to all participants to assess their level of health literacy.

(3) Health Education Materials & Questionnaire—Asthma/Inhaler—This includes a set of educational materials related to asthma and proper use of inhalers. Each consumer will be randomly assigned one of the six following materials:

(i) An audiovisual material (understandable and actionable), titled How to use an inhaler by the Utah Department Health Asthma Program.

(ii) An audiovisual material (understandable and poorly actionable), titled Asthma Triggers by Children's Healthcare of Atlanta.

(iii) An audiovisual material (poorly understandable), titled Asthma Inhaler Medication Technique—How to Take an Asthma Inhaler by America's Allergist.

(iv) A printable material (understandable and actionable), titled Asthma: How to Use A Metered Dose Inhaler, by *FamilyDoctor.org*.

(v) A printable material (understandable and poorly actionable), titled How to use an inhaler—no spacer, by MedlinePlus.

(vi) A printable material (poorly understandable), titled Inhaled Asthma Medications: Tips to Remember, by the American Academy of Allergy Asthma & Immunology.

After seeing the randomly assigned audiovisual or printable material the participants will be administered a brief questionnaire to assess their understanding of how to use an inhaler and what actions to take based on the material.

(4) Health Education Materials & Questionnaire—Colonoscopy—This includes a set of educational materials related to colonoscopy. Each consumer will be randomly assigned one of the six following materials:

(i) An audiovisual material (understandable and actionable), titled Colonoscopy Patient Education Video by Krames.

(ii) An audiovisual material (understandable and poorly actionable), titled Colorectal Cancer Awareness by St. Vincent's Healthcare.

(iii) An audiovisual material (poorly understandable), titled Prepare for a Colonoscopy by The University of Texas MD Anderson Cancer Center.

(iv) A printable material (understandable and actionable), titled Getting Ready for Your Colonoscopy by West Chester Endoscopy Suite.

(v) A printable material (understandable and poorly actionable), titled Colonoscopy in the National

Digestive Diseases Information Clearinghouse (NDDIC).

(vi) A printable material (poorly understandable), titled Colonoscopy by the American College of Surgeons Division of Education.

After viewing the randomly assigned audiovisual or printable material the participants will be administered a brief questionnaire to assess their understanding of a colonoscopy and what actions to take based on the material.

The data collected from this project will be used to assess the construct validity of and inform revisions to the HIRS. The HIRS will be the first instrument that can assess the understandability and actionability of patient health education materials that can be incorporated into an EHR, including printable and audiovisual materials. Note that the materials to be assessed need not currently be incorporated into EHRs; for now, we are focusing on materials that have the potential to be incorporated into EHRs.

No claim is made that the results from this study will be generalizable in the statistical sense. Rather, the consumer testing will be informative and critical to ensuring we have developed a valid rating system by conducting consumer testing.

Estimated Annual Respondent Burden

Exhibit 1 presents estimates of the annualized burden hours for the participants' time to participate in this research. The Demographic and S–TOFHLA questionnaires will be completed by all 48 participants and takes 5 and 7 minutes, respectively, to complete. Each of the 48 participants will review 2 different health education materials and then answer the associated questionnaires for each material topic. Participants will review English-language materials related to inhaler use and colonoscopy. To review each material and answer the associated questionnaire requires 30 minutes (15 minutes to review the materials and 15 minutes to complete the questionnaire). The total annualized burden is estimated to be 58 hours.

Exhibit 2 presents the estimated annualized cost burden associated with the respondents' time to participate in this research. The total cost burden is estimated at $1,237.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Data collection	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
Demographic Questionnaire	48	1	5/60	4
S–TOFHLA Questionnaire	48	1	7/60	6
Health Education Materials & Questionnaire—Inhaler	48	1	30/60	24
Health Education Materials & Questionnaire—Colonoscopy	48	1	30/60	24
Total	192	na	na	58

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Data collection	Number of respondents	Total burden hours	Average hourly wage rate*	Total cost burden
Demographic Questionnaire	48	4	$21.35	$85
S–TOFHLA Questionnaire	48	6	21.35	128
Health Education Materials & Questionnaire—Inhaler	48	24	21.35	512
Health Education Materials & Questionnaire—Colonoscopy	48	24	21.35	512
Total	192	58	na	1,237

*Based upon the mean wage for all occupations, National Compensation Survey: Occupational wages in the United States May 2010, "U.S. Department of Labor, Bureau of Labor Statistics."

Estimated Annual Costs to the Federal Government

The total cost of this contract to the government is $524,945, and the project extends over 3 years (July 19, 2010 to July 18, 2013). The data collection for which we are seeking OMB clearance will take place from February 1, 2013 to March 31, 2013. Exhibit 3 shows a breakdown of the total cost as well as the annualized cost for the data collection, processing and analysis activity for this entire contract.

EXHIBIT 3—ESTIMATED COST

Cost component	Total cost	Annual cost
Project Development	$66,447	$22,149
Data Collection Activities	129,547	43,182
Data Processing and Analysis	129,548	43,183
Publication of Results	131,571	43,857
Project Management	67,832	22,611
Total	524,945	174,982

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: September 27, 2012.

Carolyn M. Clancy,

Director.

[FR Doc. 2012–24454 Filed 10–4–12; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Meeting of the National Advisory Council for Healthcare Research and Quality

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, this notice announces a meeting of the National Advisory Council for Healthcare Research and Quality.

DATES: The meeting will be held on Friday, November 9, 2012, from 8:30 a.m. to 3:30 p.m.

ADDRESSES: The meeting will be held at the Eisenberg Conference Center, Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, Maryland 20850.

FOR FURTHER INFORMATION CONTACT: Jaime Zimmerman, Coordinator of the Advisory Council, at the Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, Maryland 20850, (301) 427–1456. For press-related information, please contact Alison Hunt at (301) 427–1244.

If sign language interpretation or other reasonable accommodation for a disability is needed, please contact the Food and Drug Administration (FDA) Office of Equal Employment Opportunity and Diversity Management on (301) 827–4840, no later than Friday, October 26, 2012. The agenda, roster, and minutes are available from Ms. Bonnie Campbell, Committee Management Officer, Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, Maryland 20850. Ms. Campbell's phone number is (301) 427–1554.

SUPPLEMENTARY INFORMATION:

I. Purpose

The National Advisory Council for Healthcare Research and Quality is authorized by Section 941 of the Public Health Service Act, 42 U.S.C. 299c. In accordance with its statutory mandate, the Council is to advise the Secretary of the Department of Health and Human Services and the Director, Agency for Healthcare Research and Quality (AHRQ), on matters related to AHRQ's conduct of its mission including providing guidance on (A) priorities for health care research, (B) the field of health care research including training needs and information dissemination on health care quality and (C) the role of the Agency in light of private sector activity and opportunities for public private partnerships.

The Council is composed of members of the public, appointed by the Secretary, and Federal ex-officio members specified in the authorizing legislation.

II. Agenda

On Friday, November 9, 2012, there will be a subcommittee meeting for the National Healthcare Quality and Disparities Report scheduled to begin at 7:30 a.m. The Council meeting will convene at 8:30 a.m., with the call to order by the Council Chair and approval of previous Council summary notes. The meeting will begin with a report from the National Advisory Council Subcommittee on the Children's Health Insurance Program Reauthorization Act. The AHRQ Director will then present her update on current research, programs, and initiatives. Following the morning session, the Council will hold an Executive Session between the hours of 12:00 p.m. and 1:30 p.m. to discuss strategic issues related to the Agency for Healthcare Research and Quality. This Executive Session will be closed to the public in accordance with 5 U.S.C. App. 2, section 10(d) and 5 U.S.C. 552b(c)(9)(B). This portion of the meeting is likely to disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action to the public. The final agenda will be available on the AHRQ Web site at *www.AHRQ.gov* no later than Friday, November 2, 2012.

Dated: September 27, 2012.

Carolyn M. Clancy,

Director.

[FR Doc. 2012–24455 Filed 10–4–12; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee to the Director (ACD), Centers for Disease Control and Prevention—Health Disparities Subcommittee (HDS)

In accordance with section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting of the aforementioned subcommittee:

Time and Date: 10 a.m.–12:15 p.m. EDT, October 24, 2012.

Place: Teleconference.

Status: Open to the public, limited only by the availability of telephone ports. The public is welcome to participate during the public comment period. A public comment period is tentatively scheduled for 12 p.m. to 12:15 p.m. To participate in the teleconference, please dial (866) 561–5277 and enter code 2238494.

Purpose: The Subcommittee will provide advice to the CDC Director through the ACD on strategic and other health disparities and health equity issues and provide guidance on opportunities for CDC.

Matters to be discussed: Agenda items will include the following: Office of Minority Health and Health Equity updates; discussion of draft recommendations from April 2012 meeting with the IOM Health Disparities Roundtable; discussion of Critical issues and Recommendations (Strategies to Strengthen CDC Response to Social Determinants of Health and Inequities); discussion regarding organizing the workflow of the HDS going forward; and HDS membership after June 2013.

The agenda is subject to change as priorities dictate.

Contact Person for More Information: Leandris Liburd, Ph.D., M.P.H., M.A., Designated Federal Officer, Health Disparities Subcommittee, Advisory Committee to the Director, CDC, 1600 Clifton Road NE., M/S E–67, Atlanta, Georgia 30333. Telephone (404) 498–2320, Email: *LEL1@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: October 1, 2012.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2012–24590 Filed 10–4–12; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10142 and CMS–R–262]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Bid Pricing Tool (BPT) for Medicare Advantage (MA) Plans and Prescription Drug Plans (PDP); *Use:* Under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), and implementing regulations at 42 CFR, Medicare Advantage organizations (MAO) and Prescription Drug Plans (PDP) are required to submit an actuarial pricing "bid" for each plan offered to Medicare beneficiaries for approval by the Centers for Medicare & Medicaid Services (CMS).

Title I of the MMA established a program to offer prescription drug benefits to Medicare enrollees through Prescription Drug Plans. MMA Title II revised several aspects of the Medicare+Choice program (renamed Medicare Advantage), including the payment methodology and the introduction of "Regional" MA plans. CMS payments to PDPs and MA plans will be on a market-based competitive approach.

MAOs and PDPs use the Bid Pricing Tool (BPT) software to develop their actuarial pricing bid. The information provided in the BPT is the basis for the plan's enrollee premiums and CMS payments for each contract year. The tool collects data such as medical expense development (from claims data and/or manual rating), administrative expenses, profit levels, and projected plan enrollment information. By statute, completed BPTs are due to CMS by the first Monday of June each year.

CMS reviews and analyzes the information provided on the Bid Pricing Tool. Ultimately, CMS decides whether to approve the plan pricing (i.e., payment and premium) proposed by each organization. CMS is requesting to continue its use of the BPT for the collection of information for CY2014 through CY2016. *Form Number:* CMS–10142 (OCN: 0938–0944); *Frequency:* Yearly; *Affected Public:* Private Sector—Business or other for-profits and not-for-profit institutions; *Number of Respondents:* 555; *Total Annual Responses:* 4,995; *Total Annual Hours:* 149,850. (For policy questions regarding this collection contact Diane Spitalnic at 410–786–5745. For all other issues call 410–786–1326.)

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Plan Benefit Package (PBP) and Formulary Submission for Medicare Advantage (MA) Plans and Prescription Drug Plans (PDP); *Use:* Under the Medicare Modernization Act (MMA), Medicare Advantage (MA) and Prescription Drug Plan (PDP) organizations are required to submit plan benefit packages for all Medicare beneficiaries residing in their service area. The plan benefit package submission consists of the Plan Benefit Package (PBP) software, formulary file, and supporting documentation, as necessary. MA and PDP organizations use the PBP software to describe their organization's plan benefit packages, including information on premiums, cost sharing, authorization rules, and supplemental benefits. They also generate a formulary to describe their list of drugs, including information on prior authorization, step therapy, tiering, and quantity limits. Additionally, CMS uses the PBP and formulary data to review and approve the plan benefit packages proposed by each MA and PDP organization.

After receiving OMB clearance in spring 2000, CMS implemented the PBP as part of the Contract Year (CY) 2001 Adjusted Community Rate Proposal (ACRP) process. In addition, information collected via the PBP and formulary has been used to support the marketing material review process, the National Medicare Education Program, and other program oversight and development activities. For instance, the PBP software automatically generates the standardized sentences for the Summary of Benefits (SB) by using the plan benefit package data entered into the PBP software by the organization's user. These standardized sentences are used by the MA organizations in their SB marketing materials and by CMS to generate plan benefits data for display in the *Medicare & You* handbook and on the *www.medicare.gov* Web site.

CMS is requesting to continue its use of the PBP software and formulary submission for the collection of benefits and related information for CY 2014 through CY 2016. CMS estimates that 578 MA organizations and 63 PDP organizations will be required to submit the plan benefit package information in CY 2014. Based on operational changes and policy clarifications to the Medicare program and continued input and feedback by the industry, CMS has made the necessary changes to the plan benefit package submission. *Form Number:* CMS–R–262 (OCN: 0938–0763); *Frequency:* Yearly; *Affected Public:* Private Sector—Business or other for-profits and not-for-profit institutions; *Number of Respondents:* 641; *Total Annual Responses:* 6,169; *Total Annual Hours:* 56,708. (For policy questions regarding this collection contact Kristy Holtje at 410–786–2209. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site address at *http://www.cms.hhs.gov/*

PaperworkReductionActof1995, or Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by *December 4, 2012:*

1. *Electronically.* You may submit your comments electronically to *http://www.regulations.gov*. Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: October 2, 2012.

Martique Jones,

Director, Regulations Development Group, Division B, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2012–24647 Filed 10–4–12; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[CFDA Number: 93.602]

Announcement of the Award of Single-Source Program Expansion Supplement Grants to Seven Assets for Independence Demonstration Program Grantees

AGENCY: Office of Community Services (OCS), ACF, HHS.

ACTION: The Administration for Children and Families (ACF), Office of Community Services (OCS) announces the award of single-source program expansion supplements to seven FY 2012 grantees under the Assets for Independence Demonstration Program.

SUMMARY: The Administration for Children and Families (ACF), Office of Community Services (OCS) announces the award of single-source program expansion supplements to seven FY 2012 grantees under the Assets for Independence Demonstration Program (AFI). Grantees will provide an array of supports and services to enable individuals and families with low incomes to become more economically self-sufficient for the long term. A primary feature of each AFI project is that project participants are given access to special matched savings accounts called Individual Development Accounts (IDA). Participants open an IDA and save earned income in the account regularly with the goal of accumulating savings to acquire an economic asset that will appreciate over time—specifically, to purchase a home, capitalize or expand a business for self-employment, or attend higher education or training. Grantees also ensure that participants have access to financial literacy education and coaching such as training on money management and consumer issues. Grant recipients must finance the projects with a combination of the federal AFI grant and non-federal cash. The non-federal cash amount must be at least equal to the federal AFI grant amount.

DATES: Project periods are 04/1/2012–03/31/2017 and 07/1/2012–06/30/2017.

FOR FURTHER INFORMATION CONTACT: Al Fleming, Program Manager, Assets for Independence, 370 L'Enfant Promenade SW., Washington, DC 20447. Telephone: 202–401–4977; Email: *al.fleming@acf.hhs.gov*.

SUPPLEMENTARY INFORMATION: The following AFI grantees will receive single-source program expansion supplement awards:

Grantee organization	Grantee location	Award
Choctaw Nation of Oklahoma	Durant, OK	$400,000
Umpqua Community Development Corporation dba NeighborWorks	Roseburg, OR	50,000
Community and Shelter Assistance Corp. dba CASA of Oregon	Sherwood, OR	184,715
City of Austin	Austin, TX	50,000
College Opportunity Resources for Education	Philadelphia, PA	134,715
Juma Ventures	San Francisco, CA	74,118
The Midas Collaborative, Inc	Allston, MA	23,423

Statutory Authority: The Assets for Independence Act (AFI) (Title IV of the Community Opportunities, Accountability and Training and Educational Act of 1998, as amended, Pub. L. 105–285, 42 U.S.C. 604 note).

Jeannine L. Chaffin,

Director, Office of Community Services.

[FR Doc. 2012–24588 Filed 10–4–12; 8:45 am]

BILLING CODE 4184–26–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Statement of Organization, Functions, and Delegations of Authority

AGENCY: Administration for Children and Families, HHS.

ACTION: Notice.

SUMMARY: Statement of Organization, Functions, and Delegations of Authority. The Administration for Children and Families (ACF) has reorganized the Office of the Assistant Secretary (OAS) and the Office of Public Affairs (OPA). This reorganization transfers the Freedom of Information Act (FOIA) function from the Office of the Assistant Secretary (OAS) to the Office of Public Affairs (OPA).

FOR FURTHER INFORMATION CONTACT: Marrianne McMullen, Director, Office of Public Affairs, 370 L'Enfant Promenade SW., Washington, DC 20447, 202–401–9216.

This notice amends Part K of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (HHS), Administration for Children and Families (ACF) as follows: Chapter KA, Office of the Assistant Secretary (OAS) last amended, 76 FR 72418–72420, November 23, 2011, and Chapter KN, Office of Public Affairs (OPA) last amended, 72 FR 31072–

31073, June 5, 2007. The changes are as follows:

I. Under Chapter KA, Office of the Assistant Secretary, delete KA.00 Mission in its entirety and replace with the following:

KA.00 MISSION. The Office of the Assistant Secretary for Children and Families (OAS) provides executive direction, leadership, and guidance for all ACF programs. OAS provides national leadership to develop and coordinate public and private initiatives for carrying out programs that promote permanency placement planning, family stability, and self-sufficiency. OAS advises the Secretary on issues affecting America's children and families, including Native Americans, refugees, and legalized aliens. OAS provides leadership on human service issues and conducts emergency preparedness and response operations during a nationally declared emergency.

II. Under Chapter KN, Office of Public Affairs, delete KN.00 Mission in its entirety and replace with the following:

KN.00 MISSION. The Office of Public Affairs (OPA) develops, directs and coordinates public affairs and communication services for ACF. It provides leadership, direction and oversight in promoting ACF's public affairs policies, programs and initiatives. OPA handles Freedom of Information Act requests and inquiries and coordinates hotline calls received by the Office of Inspector General and the Government Accountability Office relating to ACF operations and personnel. The Office of Public Affairs also provides printing and distribution services for ACF.

III. Under Chapter KN, Office of Public Affairs, delete KN.20 Paragraph B in its entirety and replace with the following:

B. Division of Public Information develops and implements public affairs strategies to achieve ACF program objectives in coordination with other ACF components. It coordinates news media relations strategy; responds to all media inquiries concerning ACF programs and related issues; develops fact sheets, news releases, feature articles for magazines and other publications on ACF programs and initiatives; and manages preparation and clearance of speeches and official statements on ACF programs. It coordinates regional public affairs policies and public affairs activities pertaining to ACF programs and initiatives. The Office coordinates hotline calls received by the Office of Inspector General and the Government Accountability Office relating to ACF operations and personnel and assists the ACF FOIA Officer in processing FOIA inquiries and requests relating to ACF programs and activities.

Dated: September 21, 2012.

George H. Sheldon,

Acting Assistant Secretary for Children and Families.

[FR Doc. 2012–24587 Filed 10–4–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0405]

Stephen C. Delaney, Jr.: Debarment Order

AGENCY: Food and Drug Administration. HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (the FD&C Act) debarring Stephen C. Delaney, Jr. for a period of 5 years from importing articles of food or offering such articles for importation into the United States. FDA bases this order on a finding that Mr. Delaney was convicted of one felony count under Federal law for conduct relating to the importation into the United States of an article of food. Mr. Delaney was given notice of the proposed debarment and an opportunity to request a hearing within the timeframe prescribed by regulation. As of August 10, 2012 (30 days after receipt of the notice), Mr. Delaney had not responded. Mr. Delaney's failure to respond constitutes a waiver of his right to a hearing concerning this action.

DATES: This order is effective October 5. 2012.

ADDRESSES: Submit applications for termination of debarment to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Kenny Shade, Office of Regulatory Affairs, Food and Drug Administration, 12420 Parklawn Dr., Rockville, MD 20857, 301–796–4640.

SUPPLEMENTARY INFORMATION:

I. Background

Section 306(b)(1)(C) of the FD&C Act (21 U.S.C. 335a(b)(1)(C)) permits FDA to debar an individual from importing an article of food or offering such an article for import into the United States if FDA finds, as required by section 306(b)(3)(A) of the FD&C Act (21 U.S.C. 335a(b)(3)(A)), that the individual has been convicted of a felony for conduct relating to the importation into the United States of any food.

On April 8, 2011, Mr. Delaney was convicted in the U.S. District Court for the District of Massachusetts of one count of false labeling under the Lacey Act in violation of 16 U.S.C. 3372(d).

FDA's finding that debarment is appropriate is based on the felony conviction referenced herein for conduct relating to the importation into the United States of any food. The factual basis for this conviction is as follows: As alleged in the indictment that was filed against Mr. Delaney, he was the president and owner of a seafood packing and re-packing company. On or about April 15, 2009, in violation of 16 U.S.C. 3372(d), he knowingly made and submitted a false record, account and label for, and a false identification of fish that had been and was intended to be, imported, purchased, and received from a foreign country and transported in interstate commerce, and involved the sale and purchase, the offer of sale and purchase, and the intent to sell and purchase, fish with a market value of approximately $8,000. Specifically, Mr. Delaney falsely labeled imported frozen fillets of pollock, product of China, as cod loins, product of Canada.

As a result of his conviction, on July 9, 2012, FDA sent Mr. Delaney a notice by certified mail proposing to debar him for a period of 5 years from importing articles of food or offering such articles for import into the United States. The proposal was based on a finding under section 306(b)(1)(C) of the FD&C Act that Mr. Delaney was convicted of a felony under Federal law for conduct relating to the importation into the United States of an article of food because he knowingly made and submitted a false record, account and label for, and a false identification of fish that had been and was intended to be, imported, purchased, and received from a foreign country and transported in interstate commerce, and involved the sale and purchase, the offer of sale and purchase, and intent to sell and purchase, fish with a market value of approximately $8,000.

The proposal was also based on a determination, after consideration of the factors set forth in section 306(c)(3) of the FD&C Act (21 U.S.C. 335a(c)(3)), that Mr. Delaney should be subject to a 5-year period of debarment. The proposal also offered Mr. Delaney an opportunity to request a hearing, providing him 30 days from the date of receipt of the letter in which to file the request, and advised

him that failure to request a hearing constituted a waiver of the opportunity for a hearing and of any contentions concerning this action. Mr. Delaney failed to respond within the timeframe prescribed by regulation and has, therefore, waived his opportunity for a hearing and waived any contentions concerning his debarment (21 CFR part 12).

II. Findings and Order

Therefore, the Director, Office of Enforcement, Office of Regulatory Affairs, under section 306(b)(1)(C) of the FD&C Act, and under authority delegated to the Director (Staff Manual Guide 1410.35), finds that Mr. Stephen C. Delaney, Jr. has been convicted of a felony under Federal law for conduct relating to the importation of an article of food into the United States and that he is subject to a 5-year period of debarment.

As a result of the foregoing finding, Mr. Delaney is debarred for a period of 5 years from importing articles of food or offering such articles for import into the United States, effective (see **DATES**). Pursuant to section 301(cc) of the FD&C Act (21 U.S.C. 331(cc)), the importing or offering for import into the United States of an article of food by, with the assistance of, or at the direction of Mr. Delaney is a prohibited act.

Any application by Mr. Delaney for termination of debarment under section 306(d)(1) of the FD&C Act should be identified with Docket No. FDA–2012–N–0405 and sent to the Division of Dockets Management (see **ADDRESSES**). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j).

Publicly available submissions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 21, 2012.

Armando Zamora,

Acting Director, Office of Enforcement, Office of Regulatory Affairs.

[FR Doc. 2012–24528 Filed 10–4–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0001]

Request for Nominations for Voting Members on Public Advisory Committees

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for voting members to serve on the Allergenic Products Advisory Committee, Blood Products Advisory Committee, Cellular, Tissue and Gene Therapies Advisory Committee, and Transmissible Spongiform and Encephalopathies Advisory Committee, Center for Biologics Evaluation and Research. Nominations will be accepted for vacancies that will or may occur through December 31, 2013.

FDA seeks to include the views of women and men, members of all racial and ethnic groups, and individuals with and without disabilities on its advisory committees and, therefore encourages nominations of appropriately qualified candidates from these groups.

DATES: Because scheduled vacancies occur on various dates throughout each year, no cutoff date is established for the receipt of nominations. However, when possible, nominations should be received at least 6 months before the date of scheduled vacancies for each year, as indicated in this notice.

ADDRESSES: All nominations for membership should be sent electronically to *cv@oc.fda.gov*, or by mail to Advisory Committee Oversight and Management Staff, 10903 New Hampshire Ave., Bldg. 32, rm. 5103, Silver Spring, MD 20993–0002. Information about becoming a member on a FDA advisory committee can also be obtained by visiting FDA's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm*.

FOR FURTHER INFORMATION CONTACT: For specific Committee questions, contact the following persons listed in Table 1 of this document:

TABLE 1

Contact person	Committee
Donald Jehn, Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, HFM–71, Rockville, MD 20852, 301–827–1293; email: *donald.jehn@fda.hhs.gov*.	Allergenic Products Advisory Committee.
Bryan Emery, Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, HFM–71, Rockville, MD 20852, 301–827–1277, email: *bryan.emery@fda.hhs.gov*.	Blood Products Advisory Committee and Transmissible Spongiform Encephalopathies Advisory Committee.
Gail Dapolito, Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, HFM–71, Rockville, MD 20852, 301–827–1289, email: *gail.dapolito@fda.hhs.gov*.	Cellular, Tissue and Gene Therapies Advisory Committee.

SUPPLEMENTARY INFORMATION:

I. Vacancies

FDA is requesting nominations of voting members for vacancies listed as follows:

TABLE 2

Committee expertise needed	Upcoming vacancies	Approximate date needed
Allergenic Products Advisory Committee—individuals knowledgeable in clinical immunology/allergy	3	September 1, 2013.
Blood Products Advisory Committee—individuals knowledgeable in surgery/trauma, pediatric hematology/oncology, hematology, medical epidemiology.	4	October 1, 2013.
Cellular, Tissue and Gene Therapies Advisory Committee—individuals knowledgeable in tissue engineering/regenerative medicine, orthopedic oncology.	2	April 2, 2013.

TABLE 2—Continued

Committee expertise needed	Upcoming vacancies	Approximate date needed
Transmissible Spongiform Encephalopathies Advisory Committee—individuals knowledgeable in veterinary medicine, prion molecular biology.	2	February 1, 2013.

II. Functions

A. Allergenic Products Advisory Committee

The Committee reviews and evaluates available data concerning the safety, effectiveness, and adequacy of labeling of marketed and investigational allergenic biological products or materials that are administered to humans for the diagnosis, prevention, or treatment of allergies and allergic disease, and makes appropriate recommendations to the Commissioner of Food and Drugs of its findings regarding the affirmation or revocation of biological product licenses, on the safety, effectiveness, and labeling of the products, on clinical and laboratory studies of such products, on amendments or revisions to regulations governing the manufacture, testing and licensing of allergenic biological products, and on the quality and relevance of FDA's research programs which provide the scientific support for regulating these agents.

B. Blood Products Committee

The Committee reviews and evaluates available data concerning the safety, effectiveness, and appropriate use of blood, products derived from blood and serum or biotechnology which are intended for use in the diagnosis, prevention, or treatment of human diseases, and, as required, any other product for which the Food and Drug Administration has regulatory responsibility, and advises the Commissioner of Food and Drugs of its findings regarding the safety, effectiveness, screening and testing (to determine eligibility) of donors and labeling of the products, on clinical and laboratory studies involving such products, on the affirmation or revocation of biological product licenses, and on the quality and relevance of FDA's research program which provides the scientific support for regulating these agents. The Committee will function at times as a medical device panel under the Federal Food, Drug, and Cosmetic Act Medical Device Amendments of 1976. As such, the Committee recommends classification of devices subject to its review into regulatory categories; recommends the assignment of a priority for the application of regulatory requirements for devices classified in the standards or premarket approval category; advises on formulation of product development protocols and reviews premarket approval applications for those devices to recommend changes in classification as appropriate; recommends exemption of certain devices from the application of portions of the Act; advises on the necessity to ban a device; and responds to requests from the Agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices.

C. Cellular, Tissue and Gene Therapies Advisory Committee

The Committee reviews and evaluates available data relating to the safety, effectiveness, and appropriate use of human cells, human tissues, gene transfer therapies and xenotransplantation products which are intended for transplantation, implantation, infusion and transfer in the prevention and treatment of a broad spectrum of human diseases and in the reconstruction, repair or replacement of tissues for various conditions. The Committee also considers the quality and relevance of FDA's research program which provides scientific support for the regulation of these products, and makes appropriate recommendations to the Commissioner of Food and Drugs.

D. Transmissible Spongiform Encephalopathies Advisory Committee

The Committee reviews and evaluates available scientific data concerning the safety of products which may be at risk for transmission of spongiform encephalopathies having an impact on the public health as determined by the Commissioner of Food and Drugs. The Committee will make recommendations to the Commissioner regarding the regulations of such products.

III. Qualifications

A. Allergenic Products Advisory Committee

Persons nominated for membership should be authorities knowledgeable in the fields of allergy, immunology, pediatrics, internal medicine, biochemistry, and related specialties. The particular needs at this time for this committee are listed in section I of this document. The term of office is up to 4 years, depending on the appointment date.

B. Blood Products Advisory Committee

Persons nominated for membership should be authorities knowledgeable in the fields of clinical and administrative medicine, hematology, immunology, blood banking, surgery, internal medicine, biochemistry, engineering, biological and physical sciences, biotechnology, computer technology, statistics, epidemiology, sociology/ethics, and other related professions. The particular needs at this time for this committee are listed in section I of this document. The term of office is up to 4 years, depending on the appointment date.

C. Cellular, Tissue and Gene Therapies Advisory Committee

Persons nominated for membership should be authorities knowledgeable in the fields of cellular therapies, tissue transplantation, gene transfer therapies and xenotransplantation (biostatistics, bioethics, hematology/oncology, human tissues and transplantation, reproductive medicine, general medicine and various medical specialties including surgery and oncology, immunology, virology, molecular biology, cell biology, developmental biology, tumor biology, biochemistry, rDNA technology, nuclear medicine, gene therapy, infectious diseases, and cellular kinetics). The particular needs at this time for this committee are listed in section I of this document. The term of office is up to 4 years, depending on the appointment date.

D. Transmissible Spongiform Encephalopathies Advisory Committee

Persons nominated for membership should be authorities knowledgeable in the fields of clinical and administrative medicine, hematology, virology, neurovirology, neurology, infectious diseases, immunology, transfusion medicine, surgery, internal medicine, biochemistry, biostatistics epidemiology, biological and physical sciences, sociology/ethics, and other related professions.

IV. Nomination Procedures

Any interested person may nominate one or more qualified persons for membership on one or more of the advisory panels or advisory committees. Self-nominations are also accepted. Nominations must include a current, complete resume or curriculum vitae for each nominee, and their current business address and/or home address, telephone number, and email address if available. Nominations must specify the advisory committee(s) for which the nominee is recommended. Nominations must also acknowledge that the nominee is aware of the nomination unless self-nominated. FDA will ask potential candidates to provide detailed information concerning such matters related to financial holdings, employment, and research grants and/or contracts to permit evaluation of possible sources of conflict of interest.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14 relating to advisory committees.

Dated: September 25, 2012.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2012–24554 Filed 10–4–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0001]

Request for Notification From Industry Organizations Interested in Participating in the Selection Process for Nonvoting Industry Representatives and Request for Nominations for Nonvoting Industry Representatives on the Tobacco Products Scientific Advisory Committee

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting that industry organizations interested in participating in the selection of a nonvoting industry representative to represent the interests of tobacco growers, to serve on its Tobacco Products Scientific Advisory Committee, notify FDA in writing. A nominee may either be self-nominated or nominated by an organization to serve as a nonvoting industry representative. Nominations will be accepted for the upcoming vacancy effective with this notice.

DATES: Any industry organization interested in participating in the selection of an appropriate nonvoting member to represent the interests of tobacco growers must send a letter stating the interest to FDA by November 5, 2012, for the vacancy listed in the notice. Concurrently, nomination materials for prospective candidates should be sent to FDA by November 5, 2012.

ADDRESSES: All letters of interest and nominations should be submitted in writing to *TPSAC@fda.hhs.gov*, or by mail to Caryn Cohen (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Caryn Cohen, Center for Tobacco Products, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 1–877–287–1373 (choose Option 4), Fax: 240–276–3655, *TPSAC@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: The Agency requests nominations for a nonvoting industry representative on the Tobacco Products Scientific Advisory Committee to represent the interests of tobacco growers. Elsewhere in this issue of the **Federal Register**, FDA is publishing a separate document announcing the Request for Notification for Voting Members on the Tobacco Products Scientific Advisory Committee.

I. Tobacco Products Scientific Advisory Committee

The Tobacco Products Scientific Advisory Committee (the Committee) advises the Commissioner of Food and Drugs (the Commissioner) or designee in discharging responsibilities as they relate to the regulation of tobacco products. The Committee reviews and evaluates safety, dependence, and health issues relating to tobacco products and provides appropriate advice, information and recommendations to the Commissioner. The Committee includes three nonvoting members who represent industry interests. These members include one representative of the tobacco manufacturing industry, one representative of the interests of tobacco growers, and one representative of the interests of the small business tobacco manufacturing industry. The representative of the interests of the small business tobacco manufacturing industry may be filled on a rotating basis by representatives of different small business tobacco manufacturers based on areas of expertise relevant to the topics being considered by the Committee. With this notice, nominations are sought for one representative of the interests of tobacco growers, and an alternate to this representative.

II. Selection Procedure

Any industry organization interested in participating in the selection of appropriate nonvoting member(s) to represent industry interests should send a letter stating that interest to the FDA contact (see **FOR FURTHER INFORMATION CONTACT**) within 30 days of publication of this document (see **DATES**). Within 50 days of publication of this document, FDA will send a letter to each organization that has expressed an interest, attaching a complete list of all such organizations, and a list of all nominees along with their current resumes. The letter will also state that it is the responsibility of the interested organizations to confer with one another and to select a candidate, within 60 days of the receipt of the letter, to serve as the nonvoting member to represent the interests of the tobacco growers on the Committee. The interested organizations are not bound by the list of nominees in selecting a candidate. However, if no individual is selected within 60 days, the Commissioner will select the nonvoting member to represent industry interests.

III. Application Procedure

Individuals may self-nominate and/or organizations may nominate one or more individuals to serve as a nonvoting industry representative (for the roles specified previously in this notice). Nominations must include a current resume or curriculum vitae of the nominee including current business address and/or home address, telephone number, email address if available, and the role for which the individual is being nominated. Nominations must also acknowledge that the nominee is aware of the nomination unless self-nominated. FDA will forward all nominations to the organizations expressing interest in participating in the selection process for the committee. (Persons who nominate themselves as nonvoting industry representatives will not participate in the selection process.)

FDA seeks to include the views of women and men, members of all racial and ethnic groups, and individuals with and without disabilities on its advisory committees and, therefore, encourages nominations of appropriately qualified candidates from these groups.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: September 25, 2012.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2012–24560 Filed 10–4–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0001]

Request for Nominations for Voting Members on a Public Advisory Committee; Tobacco Products Scientific Advisory Committee

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for voting members to serve on the Tobacco Products Scientific Advisory Committee, Office of Science, Center for Tobacco Products.

FDA seeks to include the views of women and men, members of all racial and ethnic groups, and individuals with and without disabilities on its advisory committees and, therefore encourages nominations of appropriately qualified candidates from these groups.

DATES: Nominations received on or before December 4, 2012, will be given first consideration for membership on the Tobacco Products Scientific Advisory Committee. Nominations received after December 4, 2012, will be considered for nomination to the committee as later vacancies occur.

ADDRESSES: All nominations for membership should be sent electronically to *cv@oc.fda.gov* or by mail to Advisory Committee Oversight and Management Staff, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5103, Silver Spring, MD 20993–0002.

FOR FURTHER INFORMATION CONTACT: *Regarding all nomination questions for membership, the primary contact is:* Caryn Cohen, Center for Tobacco Products, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 1–877–287–1373 (choose Option 4), FAX: 240–276–3655, *TPSAC@fda.hhs.gov.*

Information about becoming a member on an FDA advisory committee can also be obtained by visiting FDA's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm.*

SUPPLEMENTARY INFORMATION: FDA is requesting nomination for voting members on the Tobacco Products Scientific Advisory Committee. Elsewhere in this issue of the **Federal Register**, FDA is publishing a separate document announcing the Request for Notification for Nonvoting Members on the Tobacco Products Scientific Advisory Committee.

I. General Description of the Committee Duties

The Tobacco Products Scientific Advisory Committee advises the Commissioner of Food and Drugs (the Commissioner) or designee in discharging responsibilities as they relate to the regulation of tobacco products. The Committee reviews and evaluates safety, dependence, and health issues relating to tobacco products and provides appropriate advice, information and recommendations to the Commissioner.

II. Criteria for Voting Members

The Committee shall consist of 12 members including the Chair. Members and the Chair are selected by the Commissioner or designee from among individuals knowledgeable in the fields of medicine, medical ethics, science, or technology involving the manufacture, evaluation, or use of tobacco products. Members will be invited to serve for overlapping terms of up to 4 years. Almost all non-Federal members of this committee serve as Special Government Employees. The Committee shall include nine technically qualified voting members, selected by the Commissioner or designee. The nine voting members shall be physicians, dentists, scientists, or health care professionals practicing in the area of oncology, pulmonology, cardiology, toxicology, pharmacology, addiction, or any other relevant specialty.

In addition to the voting members, the committee shall include three nonvoting members who are identified with industry interests. These members shall include one representative of the tobacco manufacturing industry, one representative of the interests of tobacco growers, and one representative of the interests of the small business tobacco manufacturing industry.

III. Nomination Procedures

Any interested person may nominate one or more qualified individuals for membership on the advisory committee. Self-nominations are also accepted. Nominations must include a current, complete resume or curriculum vitae for each nominee, including current business address and/or home address, telephone number, and email address if available. Nominations must also specify the advisory committee for which the nominee is recommended. Nominations must also acknowledge that the nominee is aware of the nomination unless self-nominated. FDA will ask potential candidates to provide detailed information concerning such matters related to financial holdings, employment, and research grants and/or contracts to permit evaluation of possible sources of conflicts of interest.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: September 24, 2012.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2012–24476 Filed 10–3–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities; Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call the HRSA Reports Clearance Officer at (301) 443–1984.

Comments are invited on: (a) The proposed collection of information for the proper performance of the functions of the agency; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: HRSA National Environmental Policy Act (NEPA) Environmental Information and

Documentation (EID) (OMB No. 0915–0324) Revision.

HRSA is requesting extension of the approval for the Environmental Information and Documentation (EID) checklist which consists of information that the agency is required to obtain to comply with the National Environmental Policy Act of 1969 (NEPA). NEPA establishes the federal government's national policy for protection of the environment. HRSA has developed the EID for applicants of funding that would potentially impact the environment and to ensure that their decision-making processes are consistent with NEPA. Applicants must provide information and assurance of compliance with NEPA on the EID checklist. The estimated annual burden is as follows:

Instrument	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
NEPA EID Checklist	2,734	1	2,734	1	2,734
Total	2,734	1	2,734	1	2,734

Email comments to *paperwork@hrsa.gov* or mail the HRSA Reports Clearance Officer, Room 10–29, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: October 2, 2012.

Bahar Niakan,

Director, Division of Policy and Information Coordination.

[FR Doc. 2012–24626 Filed 10–4–12; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Request for Comments Under the Paperwork Reduction Act, Section 3506

AGENCY: National Institutes of Health (NIH), HHS.

ACTION: Request for comments.

SUMMARY: The National Institutes of Health (NIH), 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, Section 3506.

Proposed Collection: Title: National Institutes of Health Information Collection Forms to Support Genomic Data Sharing for Research Purposes; *Type of Information Collection Request:* New; *Need and Use of Information Collection:* The NIH mission is to seek fundamental knowledge about the nature and behavior of living systems and the application of that knowledge to enhance health, lengthen life, and reduce the burdens of illness and disability. The sharing of research data supports this mission and is essential to facilitate the translation of research results into knowledge, products, practices, and procedures that improve human health.

By enabling secondary research questions to be addressed, data sharing maximizes the public benefit achieved through research investments. NIH's *Policy for Sharing of Data Obtained in NIH Supported or Conducted Genome-Wide Association Studies (GWAS)* was established to enable the full value of GWAS data to be realized. GWAS data are maintained in a central data repository, the database of Genotypes and Phenotypes (dbGaP), which is administered by the National Center for Biotechnology Information (NCBI), part of the National Library of Medicine at NIH.

As stipulated in the NIH GWAS policy, all principal investigators (PIs) who receive NIH funding to conduct genomic research are expected to register studies with genomic data in dbGaP. The nature of the genomic, phenotypic, and other associated data generated through large-scale human genomic studies requires responsible stewardship throughout research and data sharing activities. Since the data being collected and shared are from human research participants, the protection of participant interests is paramount. PIs submitting data to dbGaP must describe any limitations on sharing the data, as defined in the informed consent provided by the participants from whom the data were originally collected. PIs must also provide basic study information such as the type of data that will be submitted to dbGaP and a description of the study.

Researchers interested in using dbGaP data for secondary research must submit a request through dbGaP and be granted permission from the relevant NIH Data Access Committees to access the data. As part of the request process, researchers must provide information such as a description of the proposed research use of the dbGaP datasets, a data security plan, and a Data Use Certification, in which the researcher agrees to the terms and conditions for use of the data. NIH has developed online forms, which will be available through dbGaP, in an effort to reduce the burden for researchers to complete the study registration, data submission, and data access processes.

Frequency of Response: As necessary.

Description of Respondents: PIs and senior officials from their institutions.

Estimate of Burden: The burden associated with this information collection is calculated in two parts: (1) The burden associated with registering genomic studies and submitting data to dbGaP and (2) the burden associated with applying for genomic data in dbGaP. The annual reporting burden for study registration and data submission is as follows: *Estimated Number of Respondents:* 100; *Estimated Number of Responses per Respondent:* 1; and *Estimated Total Annual Burden Hours Requested:* 63. The annual cost to respondents is estimated at $2,506. The annual reporting burden for applying for genomic data in dbGaP is as follows: *Estimated Number of Respondents:* 1,266; *Estimated Number of Responses per Respondent:* 2; and *Estimated Total Annual Burden Hours Requested:* 1,583. The annual cost to respondents is estimated at $63,452. There are no capital, operating, or maintenance costs to the respondents.

Type of respondent	Estimated number of respondents	Estimated number of responses per respondent	Average burden per response (in hours)	Estimated total annual burden hours
Study Registration and Data Submission				
PI	50	1	45/60	38
Senior Official	50	1	30/60	25
Total	100			63
Data Access Request				
PI	633	2	45/60	950
Senior Official	633	2	30/60	633
Total	1,266			1,583

Request For Comments: Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request additional information on the proposed information collection, contact: Sarah Carr, Acting Director, Office of Clinical Research and Bioethics Policy, Office of Science Policy, NIH, 6705 Rockledge Drive, Suite 750, Bethesda, MD 20892; telephone 301–496–9838; fax 301–496–9839; or email *GWAS@mail.nih.gov*, Attention: Ms. Carr.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication. Comments should be directed to Ms. Carr through the contact information above.

Dated: September 28, 2012.

Sarah Carr,

Acting Director, Office of Clinical Research and Bioethics Policy, Office of Science Policy, NIH.

[FR Doc. 2012–24623 Filed 10–4–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting. The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Resource Related Research Projects for AIDS, Allergy, Immunology & Transplantation.

Date: October 25, 2012.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817.

Contact Person: Dharmendar Rathore, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Rm. 3134, Bethesda, MD 20892–7616, 301–435–2766, *rathored@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: October 1, 2012.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24579 Filed 10–4–12; 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 Conflicts: Immunologic Mechanisms.

Date: October 17, 2012.

Time: 10 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6705 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Stephen M. Nigida, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4212, MSC 7812, Bethesda, MD 20892, 301–435–1222, *nigidas@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business Grant Applications: Immunology.

Date: October 26, 2012.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The River Inn, 924 25th Street NW., Washington, DC 20037.

Contact Person: Stephen M. Nigida, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4212, MSC 7812, Bethesda, MD 20892, 301–435–1222, *nigidas@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Molecular and Cellular Substrates of Complex Brain Disorders.

Date: October 29, 2012.

Time: 8 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites DC Convention Center, 900 10th Street NW., Washington, DC 20001.

Contact Person: Deborah L. Lewis, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4183, MSC 7850, Bethesda, MD 20892, 301–408–9129, *lewisdeb@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Biobehavioral Regulation, Learning and Ethology.

Date: October 29, 2012.

Time: 2 p.m. to 5 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: Center for Scientific Review Special Emphasis Panel; Review of Neuroscience AREA Grant Applications.

Date: November 1–2, 2012.

Time: 8 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott-Residence Inn Arlington Capital View, 2850 South Potomac Avenue, Arlington, VA 22202.

Contact Person: Carole L. Jelsema, Ph.D., Chief and Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7850, Bethesda, MD 20892, (301) 435–1248, *jelsemac@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: Prenatal Stress and Child Outcomes.

Date: November 1–2, 2012.

Time: 9 a.m. to 6 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*.

(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: October 1, 2012.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24580 Filed 10–4–12; 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 Topics in Bacterial Pathogenesis.

Date: October 10–11, 2012.

Time: 7:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Rolf Menzel, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3196, MSC 7808, Bethesda, MD 20892, 301–435–0952, *menzelro@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Neurodegeneration.

Date: October 25, 2012.

Time: 1:00 p.m. to 2:30 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: Toby Behar, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7850, Bethesda, MD 20892, (301) 435–4433, *behart@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Olfactory Function.

Date: October 25, 2012.

Time: 2:00 p.m. to 5:30 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: M Catherine Bennett, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7846, Bethesda, MD 20892, 301–435–1766, *bennettc3@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Member Conflict; Biostatistical Methods and Research Design.

Date: October 25, 2012.

Time: 2:00 p.m. to 3:00 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: 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 Small Business: Health Informatics.

Date: October 26, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Claire E Gutkin, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3106, MSC 7808, Bethesda, MD 20892, 301–594–3139, *gutkincl@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel PAR Panel: Understanding and Promoting Health Literacy.

Date: October 26, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street NW., Washington, DC 20036.

Contact Person: Rebecca Henry, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3222, MSC 7808, Bethesda, MD 20892, 301–435–1717, *henryrr@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Small Business: Non-HIV Microbial Vaccine Development.

Date: October 26, 2012.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn, 7335 Wisconsin Avenue, Bethesda, MD 20814.

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.*

(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: September 21, 2012.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24552 Filed 10–4–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Arthritis and Musculoskeletal and Skin Diseases Initial Review Group; Arthritis and Musculoskeletal and Skin Diseases Clinical Trials Review Committee.

Date: November 1–2, 2012.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Charles H. Washabaugh, Ph.D., Scientific Review Officer, National Institute of Arthritis, Musculoskeletal and Skin Diseases, National Institutes of Health, 6701 Democracy Boulevard, Suite 800, Bethesda, MD 20892, (301) 496–9568, *washabac@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: October 1, 2012.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24581 Filed 10–4–12; 8:45 am]

BILLING CODE 4140–01–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 Special Emphasis Panel; Translational Research For The Development of Novel Interventions For Mental Disorders—R21/R33.

Date: October 19, 2012.

Time: 10:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: 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 Special Emphasis Panel; National Research Service Award Institutional Research Training Grants (NIMH T32)

Date: October 30, 2012.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Ave. NW., Washington, DC 20037.

Contact Person: Rebecca C Steiner, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6149, MSC 9608, Bethesda, MD 20892–9608, 301–443–4525, *steinerr@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: September 21, 2012.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2012–24553 Filed 10–4–12; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Notice of Adjustment of Countywide Per Capita Impact Indicator

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: FEMA gives notice that the countywide per capita impact indicator under the Public Assistance program for disasters declared on or after October 1, 2012, will be increased.

DATES: *Effective Date:* October 1, 2012, and applies to major disasters declared on or after October 1, 2012.

FOR FURTHER INFORMATION CONTACT: William Roche, Recovery Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3834.

SUPPLEMENTARY INFORMATION: In assessing damages for area designations under 44 CFR 206.40(b), FEMA uses a county-wide per capita indicator to evaluate the impact of the disaster at the county level. FEMA will adjust the countywide per capita impact indicator under the Public Assistance program to reflect annual changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

FEMA gives notice of an increase in the countywide per capita impact indicator to $3.45 for all disasters declared on or after October 1, 2012.

FEMA bases the adjustment on an increase in the Consumer Price Index for All Urban Consumers of 1.7 percent for the 12-month period ended in August 2012. The Bureau of Labor Statistics of the U.S. Department of Labor released the information on September 14, 2012.

Catalog of Federal Domestic Assistance No. 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters).

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2012–24672 Filed 10–4–12; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4082–DR; Docket ID FEMA–2012–0002]

Alabama; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Alabama (FEMA–4082–DR), dated September 21, 2012, and related determinations.

DATES: *Effective Date:* September 21, 2012.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 21, 2012, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"), as follows:

I have determined that the damage in certain areas of the State of Alabama resulting from Hurricane Isaac during the period of August 26 to September 5, 2012, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"). Therefore, I declare that such a major disaster exists in the State of Alabama.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Joe M. Girot, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Alabama have been designated as adversely affected by this major disaster:

Baldwin, Mobile, and Pickens Counties for Public Assistance.

All counties within the State of Alabama are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2012–24677 Filed 10–4–12; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Expansion of Importer Self-Assessment Program To Include Qualified Importers of Focused Assessment Audits

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This document announces changes to the Importer Self-Assessment (ISA) program and describes the requirements for participation in, and benefits under, the program. The ISA program allows participants an opportunity to assess their own compliance with U.S. Customs and Border Protection (CBP) laws and regulations rather than undergoing comprehensive CBP audits. This document announces that a company that has successfully undergone a CBP Focused Assessment (FA) audit may be eligible to transition into the ISA program without further CBP review within twelve (12) months from the date of the FA Report wherein Regulatory Audit, Office of International Trade, has determined that the company represents an acceptable risk to CBP, if the company also: Is a U.S. or Canadian resident importer; obtains Customs-Trade Partnership Against Terrorism (C–TPAT) program membership; develops a risk-based self-testing plan; and agrees to meet all of the ISA program requirements. An Application Review Meeting, which is normally required for ISA applicants, will not be required for participants under this new policy.

DATES: The program modifications set forth in this document are effective October 5, 2012.

FOR FURTHER INFORMATION CONTACT: John Leonard, Acting Executive Director, Trade Policy and Programs, Office of International Trade, at *tppb-isa@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

Importer Self-Assessment Program and the Focused Assessment

The Importer Self-Assessment (ISA) program is a joint government-business initiative designed to build cooperative relationships that strengthen trade compliance. It is based on the premise that companies with strong internal controls achieve the highest level of compliance with customs laws and regulations. On June 7, 2002, the former U.S. Customs Service (now U.S. Customs and Border Protection (CBP)) published a **Federal Register** (67 FR 41298) notice announcing the ISA program and describing the requirements for participation in, and benefits under, the program. For the most part, the requirements for participation in the ISA program remain as described in the 2002 Notice, except that the program has been expanded to accept Canadian as well as U.S. importers and participants must retain self-testing results for three (3) years.

Upon acceptance into the ISA program, the company will immediately begin to receive the following benefits:

- Entitled to receive entry summary trade data, including analysis support, from CBP.
- Consultation, guidance, and training by CBP if requested and as resources permit (for compliance, risk

assessments, internal controls, CBP audit trails, etc.).

- Opportunity to apply for coverage of multiple business units.
- Removal from Regulatory Audit's audit pool established for Focused Assessment (FA). However, companies may be subject to a single issue audit to address a specific concern.
- Receipt of a written notice from CBP if CBP becomes aware of an error in which there is an indication of a violation of 19 U.S.C. 1592 or 1593(a). CBP will allow thirty (30) days from the date of the notification for the company to assess and, if determined necessary, to file a prior disclosure pursuant to 19 CFR 162.74. This benefit does not apply if the matter is already the subject of an ongoing investigation or if fraud is involved.
- Consideration of the company's participation in the ISA program in the disposition of a case involving civil penalties or liquidated damages assessed against the company, although such participation does not preclude the issuance of a penalty or liquidated damages claim, or other enforcement action, if warranted.
- Assignment of a National Account Manager (NAM), who will ensure that issues, questions, and concerns are addressed in a timely fashion and are directed to the appropriate area. The NAM also helps coordinate the participant's activities, and provides oversight of the ISA account.
- Expedited cargo release.
- Expedited internal advice/consultation from Regulations & Rulings, Office of International Trade.
- Priority consideration for applications to participate in the Centers of Excellence and Expertise tests.
- Additional benefits may be tailored to industry needs.

Please note that this list reflects the changes that have been made to the benefits under the ISA program since the June 2002 **Federal Register** (67 FR 41298) notice publication.

The FA is a rigorous audit process conducted by Regulatory Audit, Office of International Trade, to determine whether a company's import activities represent an acceptable risk to CBP through an assessment of the company's organizational structure and its internal controls over compliance with applicable customs laws and regulations.

Successful Focused Assessment to Importer Self-Assessment Program Transition

The FA is a more rigorous and thorough method of examining a company's internal systems for compliance with customs laws and regulations than the ISA review process. Therefore, CBP has decided to provide companies that have successfully completed the FA an opportunity to transition directly into the ISA program within twelve (12) months of their FA audit report date, which indicates that the company successfully passed the audit. The FA audit report is provided to the company by mail from Regulatory Audit, Office of International Trade. This new policy creates efficiencies relative to the time, money, and resources involved with the normal ISA application and evaluation process.

CBP opens this opportunity to companies that have successfully undergone a FA audit only if the company also: Is a U.S. or Canadian resident importer; obtains Customs-Trade Partnership Against Terrorism (C–TPAT) program membership (those companies that are not C–TPAT certified will need to request certification by applying on the C–TPAT Portal, *https://ctpat.cbp.dhs.gov,* and their C–TPAT applications will be reviewed in an expedited fashion, within 30–45 days of receipt, rather than the typical 90-day schedule); develops a written risk-based self-testing plan; completes the ISA Memorandum of Understanding (MOU) as noted in the ISA Handbook, posted on the Web at *http://www.cbp.gov/linkhandler/cgov/trade/trade_programs/importer_self_assessment/isa_hb.ctt/isa_hb.pdf;* and agrees to meet all of the ISA program requirements identified in the **Federal Register** (67 FR 41298) notice dated June 7, 2002 and updated by this document.

Qualified companies will not need to undergo the Application Review Meeting (ARM) that is routinely scheduled for ISA applicants that undergo the normal ISA application evaluation process. CBP normally conducts an ARM to review an ISA applicant's corporate structure as it relates to customs-related work, its internal control processes, its entry processes from purchase order to payment for certain entries selected by the ISA team, and to discuss the scope and methodology of the self-testing plan developed by the company. Companies that would like to participate in the ISA program under this new policy will have already undergone a more rigorous review process under the FA audit and, therefore, will not need to participate in an ARM.

Application Process

Any interested company that has successfully completed a FA in the twelve (12) months prior to the publication of this document may apply to transition into the ISA program. After publication of this document, companies that successfully complete a FA have twelve (12) months from the date of the FA Report to apply to transition into the ISA program. Requests to participate must be submitted to the Chief, Partnership Programs Branch, Office of International Trade, U.S. Customs and Border Protection, 1400 L Street NW., Washington, DC 20229–1143. Applications must include:

1. An ISA Memorandum of Understanding (MOU) listing the importer of record number(s) included in the FA and the MOU must be signed by an officer of the company; and
2. A written, risk-based, self-testing plan that should include: The risk assessment methodology used by the company; the testing methodology; the frequency of self-testing activities (i.e., monthly, quarterly, etc.); the number of sample items to be tested; and the name and contact information for the person who will review the self-testing results. The self-testing process should be conducted at least annually. (*www.cbp.gov/xp/cgov/trade/trade_programs/importer_self_assessment/*).

Once the company is accepted as a member of the ISA program, CBP will send the company an ISA certificate signed by the Assistant Commissioner, Office of International Trade, which indicates the date of acceptance into the program, an executed MOU, and a letter notifying it of its acceptance into the program.

Post-ISA Acceptance Requirements

ISA participants are required to comply with the requirements noted in the ISA Handbook.

Companies that are transitioned into the ISA program will be required to submit an annual notification letter to CBP within thirty (30) days of their two year anniversary date of acceptance into the ISA program, which is the date that the Assistant Commissioner, Office of International Trade signs the ISA MOU. The annual notification letter is due every twelve (12) months thereafter. The annual notification letter is meant to ensure that the program participant continues to meet the requirements of the ISA program and to inform CBP of any business modifications that may have a potential impact on the company's customs operations. The annual notification letter must be in writing and addressed to the Chief, Partnership Programs Branch, Office of International Trade, U.S. Customs and

Border Protection, 1400 L Street NW., Washington, DC 20229–1143. More information about the annual reporting requirements can be found in Appendix H of the ISA Handbook.

ISA participants will not be subject to any routine or periodic on-site reviews or audits, other than consultations with NAMs for support and compliance improvement purposes. However, a participant may be subject to an on-site audit to address a specific issue related to an identified trade compliance risk.

Procedures for Discontinuance

An ISA program participant may be subject to discontinuance from participation in the program for any of the following reasons:

- Failure to follow the terms of the MOU;
- Failure to exercise reasonable care in the execution of participant obligations under the program.; or
- Failure to abide by applicable laws and regulations.

If the Executive Director, Trade Policy and Programs (TPP), Office of International Trade believes that there is a basis for discontinuance of ISA program privileges, the ISA program participant will be provided a written notice proposing the discontinuance with a description of the facts or conduct warranting the action. The participant will be offered the opportunity to appeal the Executive Director's decision in writing within ten (10) calendar days of receipt of the written notice. The appeal must be submitted to the Assistant Commissioner, Office of International Trade, U.S. Customs and Border Protection, 1400 L Street NW., Washington, DC 20229. The Assistant Commissioner, Office of International Trade, will issue a decision in writing on the proposed action within thirty (30) working days after receiving a timely filed appeal from the participant. If no timely appeal is received, the proposed notice becomes the final decision of the Agency as of the date that the appeal period expires. A proposed discontinuance of a participant's participation privileges will not take effect unless the appeal process under this paragraph has been concluded with a written decision adverse to the participant.

Procedures for Immediate Discontinuance

In the case of willfulness or those in which public health, interest, or safety so requires, the Executive Director, Trade Policy and Programs, Office of International Trade may immediately discontinue the participant's participation privileges upon written notice to the participant. The notice will contain a description of the facts or conduct warranting the immediate action. The participant will be offered the opportunity to appeal the Executive Director's decision within ten (10) calendar days of receipt of the written notice providing for immediate discontinuance. The appeal must be submitted to the Assistant Commissioner, Office of International Trade, U.S. Customs and Border Protection, 1400 L Street NW., Washington, DC 20229. The immediate discontinuance will remain in effect during the appeal period. The Assistant Commissioner, Office of International Trade, will issue a decision in writing on the discontinuance within fifteen (15) working days after receiving a timely filed appeal from the participant. If no timely appeal is received, the notice becomes the final decision of the Agency as of the date that the appeal period expires.

Dated: September 26, 2012.

Allen Gina,

Assistant Commissioner, Office of International Trade.

[FR Doc. 2012–24592 Filed 10–4–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5601–N–39]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7266, Washington, DC 20410; telephone (202) 402–3970; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for "off-site use only" recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Theresa Ritta, Division of Property Management, Program Support Center, HHS, room 5B–17, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Ann Marie Oliva at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (i.e., acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: AIR FORCE: Mr. Robert Moore, Air Force Real Property Agency, 143 Billy Mitchell Blvd., San Antonio, TX 78226, (210) 925–3047; (This is not toll-free numbers).

Dated: September 27, 2012.

Ann Marie Oliva,

Deputy Assistant Secretary for Special Needs (Acting).

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 10/05/2012

Suitable/Available Properties

Building

Colorado

Building 300
Buckley AFB
Aurora CO 80011
Landholding Agency: Air Force
Property Number: 18201230016
Status: Unutilized
Comments: off-site removal only; 1414 sf.; jet fuel labs; roof has collapse & needs to be replaced; restricted area; contact AF for details on accessibility/removal

Idaho

38 Buildings
Aspen & Lodge Pole
Mountain Home ID 83648
Landholding Agency: Air Force
Property Number: 18201230034
Status: Underutilized
Directions: 5001–5013, 5015, 5019–5023, 5025, 5027, 5029, 5031–5033, 5035–5041, 5043, 5101, 5103, 5105, 5107, 5109
Comments: off-site removal only; sf. varies; military housing; minor repairs/renovations needed; asbestos & lead present; restricted area; contact AF for info. on accessibility/removal reqs.

38 Buildings
Lodge Pole & Cottonwood
Mountain Home ID 83648
Landholding Agency: Air Force
Property Number: 18201230035
Status: Underutilized
Directions: 5110–5121, 5123, 5125, 5127–5132, 5134, 5137, 5139, 5141, 5144–5146, 5150, 5152–5161
Comments: off-site removal only; sf. varies; military housing; minor repairs/renovations needed; asbestos & lead present: restricted area; contact AF for info. on accessibility/removal reqs.

37 Buildings
Cottonwood & Sage
Mountain Home ID 83648
Landholding Agency: Air Force
Property Number: 18201230036
Status: Underutilized
Directions: 5162–5164, 5166, 5168, 5170, 5201–5208, 5210, 5212, 5214–5219, 5221, 5223, 5225–5229, 5231, 5233, 5235–5240
Comments: off-site removal only; sf. varies; military housing; minor repairs/renovations needed; asbestos & lead present; restricted area; contact AF for info. on accessibility/removal reqs.

38 Buildings
Sage, Beech, & Hickory
Mountain Home ID 83648
Landholding Agency: Air Force
Property Number: 18201230037
Status: Underutilized
Directions: 5241, 5243, 5245–5247, 5249, 5251, 5253–5255, 5257, 5259–5261, 5263, 5265, 5268, 5302–5303, 5305–5313, 5315, 5317, 5319–5323, 5323, 5327
Comments: off-site removal only; sf. varies; military housing; minor repairs/renovations needed; asbestos & lead present; restricted area; contact AF for info. on accessibility/removal reqs.

38 Buildings
Hickory & Pinon
Mountain Home ID 83648
Landholding Agency: Air Force
Property Number: 18201230038
Status: Underutilized
Directions: 5329–5333, 5335, 5337, 5339, 5341–5349, 5351, 5353, 5355–5359, 5361, 5363–5367, 5370–5377
Comments: off-site removal only; sf. varies; military housing; minor repairs/renovations needed; asbestos & lead present; restricted area; contact AF for info. on accessibility/removal reqs.

New Jersey

Building 2101
Vandenberg Ave.
Trenton NJ 08641
Landholding Agency: Air Force
Property Number: 18201230007
Status: Underutilized
Comments: off-site removal only; 24,256 sf.; central heating plant; extensive deterioration; major repairs a must to occupy; contamination; remediation needed; schedule appt. w/Real Property Office access

B–5249
South Scott Plaza
Ft. Dix NJ 08640
Landholding Agency: Air Force
Property Number: 18201230011
Status: Unutilized
Comments:off-site removal only; cooling tower; extensive deterioration; major repairs required; restricted area; contact AF for more details on accessibility/removal

B–5252
South Scott Ave.
Ft. Dix NJ 08640
Landholding Agency: Air Force
Property Number: 18201230012
Status: Unutilized
Comments: off-site removal only; 5,693 sf.; heat plant; extensive deterioration; major repairs a must to occupy; restricted area; contact AF for details on accessibility/removal

New Mexico

7 Buildings
Cannon AFB
Cannon NM 88103
Landholding Agency: Air Force
Property Number: 18201230020
Status: Underutilized
Directions: 88, 389, 2280, 2282, 2284, 86,87
Comments: off-site removal only; sf. varies; repairs needed; restricted area; contact AF for more details on accessibility/removal

Unsuitable Properties

Building

Alabama

6 Buildings
Varies Locations
Maxwell AFB AL 36112
Landholding Agency: Air Force
Property Number: 18201230025
Status: Excess
Directions: 1417, 1418, 1419, 1422, 1468, 1470
Comments: located w/in restricted area; public access denied & no alternative method to gain access w/out compromising nat'l security
Reasons: Secured Area

Bldg. 31
450 Cedar St.
Maxwell AFB AL 36112
Landholding Agency: Air Force
Property Number: 18201230026
Status: Unutilized
Comments: located w/in restricted area; public access denied & no alternative method to gain access w/out compromising nat'l security
Reasons: Secured Area

California

3 Buildings
Edwards AFB
Edwards AFB CA 93524
Landholding Agency: Air Force
Property Number: 18201230032
Status: Unutilized
Directions: 1412, 4203, 7020
Comments: located w/in restricted area where public access denied & no alternative method to gain access w/out compromising nat'l security
Reasons: Secured Area

Colorado

4 Buildings
Buckley AFB
Aurora CO 80011

Landholding Agency: Air Force
Property Number: 18201230017
Status: Underutilized
Directions: B1504, B1503, B1502, B1501
Comments: located w/in secured area where public access denied & no alternative method to gain access w/out compromising nat'l security
Reasons: Secured Area

San Latrine Shower
1093 Ferl Rd.
USAF Academy CO 80840
Landholding Agency: Air Force
Property Number: 18201230033
Status: Underutilized
Comments: located w/in secured area; public access denied & no alternative method to gain access w/out compromising nat'l security
Reasons: Secured Area

Delaware

2 Buildings
Dover AFB
Dover DE 19902
Landholding Agency: Air Force
Property Number: 18201230018
Status: Underutilized
Directions: 3499, 899
Comments: located w/in secured area where public access denied & no alternative method to gain access w/out compromising nat'l security
Reasons: Secured Area

Florida

3 Buildings
MacDill AFB
MacDill FL 33621
Landholding Agency: Air Force
Property Number: 18201230009
Status: Unutilized
Directions: 1205, 1149, 1135
Comments: located w/in secured area where public access denied & no alternative method to gain access w/out compromising nat'l security
Reasons: Secured Area

10 Buildings
Samuel C. Phillips Pkwy
Cape Canaveral AFB FL 32925
Landholding Agency: Air Force
Property Number: 18201230014
Status: Excess
Directions: 84922, 84920, 67900, 60535, 60534, 1361, 40906, 56623, 36004, 17705
Comments: located w/in secured area where public access denied & no alternative method to gain access w/out compromising nat'l security
Reasons: Secured Area

Facility 49800
15030 Samuel C. Phillips Pkwy
Cape Canaveral FL 32925
Landholding Agency: Air Force
Property Number: 18201230019
Status: Excess
Comments: located w/in secured area where public access denied & no alternative method to gain access w/out compromising nat'l security
Reasons: Secured Area

Bldg. 1132
Transmitter Rd.
MacDill AFB FL 33621
Landholding Agency: Air Force
Property Number: 18201230021
Status: Unutilized
Comments: located w/in secured area where public access denied & no alternative method to gain access w/out compromising nat'l security
Reasons: Secured Area

Illinois

B1508
107 Bucher St.
Scott AFB IL 62225
Landholding Agency: Air Force
Property Number: 18201230023
Status: Excess
Comments: authorized access only; restricted area; public access denied & no alternative method to gain access w/out compromising nat'l security
Reasons: Secured Area

New Jersey

3 Buildings
Joint Base McGuire Dix Lakehurst
Ft. Dix NJ 08640
Landholding Agency: Air Force
Property Number: 18201230008
Status: Unutilized
Directions: 9725, 9055, 9404
Comments: located w/in secured area where public access denied & no alternative method to gain access w/out compromising nat'l security
Reasons: Secured Area

Facility 9418
Joint Base McGuire Dix Lakehurst
Ft. Dix NJ 08640
Landholding Agency: Air Force
Property Number: 18201230013
Status: Unutilized
Comments: located w/in secured area where public access denied & no alternative method to gain access w/out compromising nat'l security
Reasons: Secured Area

Ohio

Facility 20167
2310 Eighth St.
WPAFB OH 43433
Landholding Agency: Air Force
Property Number: 18201230031
Status: Unutilized
Comments: located w/in controlled fenced perimeter of military installation; public access denied & no alternative method to gain access w/out compromising nat'l security
Reasons: Secured Area

Oklahoma

Facility 47
Altus AFB
AGGN OK 73523
Landholding Agency: Air Force
Property Number: 18201230030
Status: Excess
Comments: public access denied due to anti-terrorism/force protection & no alternative method to gain access w/out compromising nat'l security
Reasons: Secured Area

Tennessee

ACFT DY RSCH TEST
675 Second St.
Arnold AFB TN 37389
Landholding Agency: Air Force
Property Number: 18201230039
Status: Underutilized
Comments: located in secured restricted area; public access denied & no alternative method to gain access w/out compromising nat'l security
Reasons: Secured Area

4 Buildings
2219 Sixth St.
Arnold AFB TN 37389
Landholding Agency: Air Force
Property Number: 18201230040
Status: Underutilized
Directions: 2220, 2221, 2222, 2223
Comments: located in secured restricted area; public access denied & no alternative method to gain access w/out compromising nat'l security
Reasons: Secured Area

Texas

5 Buildings
Goodfellow AFB
Goodfellow TX 76908
Landholding Agency: Air Force
Property Number: 18201230027
Status: Excess
Directions: 104, 508, 538, 707, 3070
Comments: anti-terrorism & force protection; located w/in restricted area where public access denied & no alternative method to gain access w/out compromising nat'l security
Reasons: Secured Area

B–6283
4810 Camp Bullis
Camp Bullis TX 78257
Landholding Agency: Air Force
Property Number: 18201230028
Status: Unutilized
Comments: located w/in secured area; public access denied & no alternative method to gain access w/out compromising nat'l security
Reasons: Secured Area

7 Buildings
4810 Camp Bullis
Camp Bullis TX 78257
Landholding Agency: Air Force
Property Number: 18201230029
Status: Unutilized
Directions: B5288, 5289, 5290, 5291, 5292, 5293, 5294
Comments: located w/in secured area where public access denied & no alternative method to gain access w/out compromising nat'l security
Reasons: Secured Area

Washington

4 Buildings
South Taxiway Rd.
Fairchild AFB WA 99011
Landholding Agency: Air Force
Property Number: 18201230010
Status: Underutilized
Directions: 1024, 1023, 1026, 1021
Comments: located w/in the boundary of an active AF installation where public access denied & no alternative method to gain access w/out compromising nat'l security
Reasons: Secured Area

Hanger 1025
200 S. Taxiway I Rd.
Fairchild AFB WA 99011
Landholding Agency: Air Force

Property Number: 18201230024
Status: Underutilized
Comments: located w/in controlled active installation; public access denied & no alternative method w/out compromising nat'l security
Reasons: Secured Area

[FR Doc. 2012–24268 Filed 10–4–12; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2012–N230; FXES11120100000F2–123–FF01E00000]

Draft Habitat Conservation Plan and Application for an Incidental Take Permit, Yamhill County, OR

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; receipt of application.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from Yamhill County (County) for an incidental take permit (permit) pursuant to the Endangered Species Act of 1973, as amended (ESA). The County's application requests a 30-year permit that would authorize "take" of the endangered Fender's blue butterfly incidental to otherwise lawful activities associated with county road maintenance and prairie habitat management activities. The application includes the County's draft habitat conservation plan (HCP), which describes the actions the County will implement to minimize and mitigate the impacts of incidental take of the Fender's blue butterfly caused by covered activities. We invite public comment on the application and draft HCP, and the Service's draft environmental action statement (EAS) and preliminary determination that the draft HCP qualifies for a categorical exclusion under the National Environmental Policy Act (NEPA).

DATES: Written comments on the HCP and categorical exclusion determination must be received from interested parties no later than November 5, 2012.

ADDRESSES: You may download copies of the draft HCP and EAS and obtain additional information on the Internet at *http://www.fws.gov/oregonfwo/ToolsForLandowners/HabitatConservationPlans/*. You may submit comments and requests for documents or more information by any of the following methods.

- *Email: OFWOcomment@fws.gov.* Include "Yamhill County HCP" in the subject line of the message.
- *U.S. Mail:* State Supervisor, U.S. Fish and Wildlife Service, 2600 SE 98th Avenue, Suite 100, Portland, OR 97266.
- *In-Person Drop-off, Viewing, or Pickup:* Call 503–231–6179 to make an appointment (necessary for view/pickup only) during regular business hours at the above address. Comments and materials received will also be available for public inspection by appointment.

FOR FURTHER INFORMATION CONTACT: Richard Szlemp, U.S. Fish and Wildlife Service, 2600 SE 98th Avenue, Suite 100, Portland, OR 97266; telephone: 503–231–6179; facsimile: 503–231–6195.

SUPPLEMENTARY INFORMATION:

Background Information

Section 9 of the ESA and Federal regulations prohibit the "taking" of a species listed as endangered or threatened. Under the ESA (16 U.S.C. 1531 *et seq.*), the term "take" means to "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." "Harm" is defined by the Service to include significant habitat modification or degradation that results in death or injury of listed species by significantly impairing their essential behavioral patterns, including breeding, feeding, and sheltering.

The Service may issue permits, under limited circumstances, to take listed species when such taking is incidental to, and not the purpose of, otherwise lawful activities. Service regulations governing permits for endangered species are found in 50 CFR 17.22, and regulations governing permits for threatened species are found in 50 CFR 17.32. Section 10(a)(1)(B) of the ESA contains provisions for issuing such incidental take permits to non-Federal entities for the take of endangered and threatened species, provided the following criteria are met: (1) The taking will be incidental; (2) the applicant will, to the maximum extent practicable, minimize and mitigate the impact of such taking; (3) the applicant will develop a proposed HCP and ensure that adequate funding for the plan will be provided; (4) the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and (5) the applicant will carry out any other measures that the Service may require as being necessary or appropriate for the purposes of the HCP.

Although take of listed plant species is not prohibited under the ESA, and therefore an incidental take permit to authorize such take is not required, listed and non-listed plant species, as well as non-listed animal species, may be included on a permit if they are treated as if they are listed for purposes of meeting the issuance criteria for an incidental take permit should the species become listed or the ESA is amended to prohibit the take of plants. All listed species included in the incidental take permit for which the HCP meets the issuance criteria would receive assurances under our "No Surprises" regulations (50 CFR 17.22(b)(5) and 17.32(b)(5)).

Proposed Action

If all of the issuance criteria described above for an incidental take permit are met, the Service will issue a permit with a 30-year term to Yamhill County that would authorize incidental take and provide regulatory assurances for potential impacts on the Fender's blue butterfly (*Icaricia icarioides fenderi*), which is federally listed as endangered. The permit would also provide regulatory assurances to the County for impacts caused by HCP-covered activities to the butterfly's larval host plant, the Kincaid's lupine (*Lupinus oreganus*), which is federally listed as threatened, should the ESA be amended to include take prohibitions for listed plants during the 30-year proposed term of the permit and HCP, provided the County's HCP provisions for the lupine meet the issuance criteria for a permit. The butterfly and the lupine represent the covered species under this HCP. The area that would be covered under the permit consists of all rights-of-way (approximately 4,943 acres) currently managed by the County and County-owned Deer Creek Park (30 acres) in Yamhill County, Oregon. Activities that would be covered under the HCP include: (1) Work within county road rights-of-way; (2) habitat restoration, enhancement, and management (including monitoring and plant material collection) activities; and (3) emergency response activities.

In the HCP, the county road right-of-way is divided into two sections for the purposes of impact analysis: (1) The "potential impact zone," which consists of the first 5 feet from the shoulder of the road; and (2) the "no impact zone," which typically consists of the next remaining 15-foot portion of the right-of-way. While referred to as the "no impact zone," there will be some impact to the covered species in this area, although they are identified as being mostly positive.

Road maintenance activities will occur along 1.02 miles, or 4.90 acres, of Fender's blue butterfly critical habitat, in units FBB–1 and FBB–2. Road maintenance activities will occur along 1.03 miles, or 5.31 acres, of Kincaid's

lupine critical habitat, in units KL–2, KL–3, and KL–4. Critical habitat for the Kincaid's lupine is mostly coincident with critical habitat for the Fender's blue butterfly.

The analysis in the HCP estimates adverse impacts over the 30-year permit term to 3.48 acres of Fender's blue butterfly and Kincaid's lupine habitat in the potential impact zone of the right-of-way. The analysis in the HCP also estimates that if up to eight additional Fender's blue butterfly locations were found along the right-of-way in the future, and if all of the area in the impact zone contained nectar plants, there could be effects to butterfly and lupine habitat in the potential impact zone of up to 20.16 acres. However, because the distribution of the Fender's blue butterfly would not be limited to the right-of-way, the analysis in the HCP assumes that other nectar sources would be available to the butterfly such that the above effects to nectar plants would be minor or negligible, and, therefore, incidental take of the butterfly would not be likely to occur.

The HCP includes the following measures to conserve habitat, and to avoid and minimize the impacts caused by incidental take of the two covered species:

1. Establishing Special Maintenance Zones where the Fender's blue butterfly and the Kincaid's lupine or their designated critical habitats are known to occur on lands within the County right-of-way. The Special Maintenance Zones total 14.14 miles, with an added 0.31-mile buffer on each end of those locations where potential habitat for the two covered species exists.

2. Implementing avoidance and minimization measures for roadside populations of the covered species within the Special Maintenance Zones. The County will mow in the Special Maintenance Zones between August 15 and March 1 to reduce potential adverse effects to the covered species by avoiding the active butterfly and caterpillar season for the Fender's blue butterfly, and the reproduve period for the Kincaid's lupine. Tractor mower decks will be set at a minimum of 6 inches above the ground to reduce potential effects on butterfly larvae.

3. Managing a portion of the road right-of-way within the Special Maintenance Zones to benefit the covered species. Invasive species will be removed to reduce competition with native species. A native grass seed mixture will be used in the Special Maintenance Zones when revegetating disturbed or bare areas.

4. Restricting normal gravel road maintenance activities (*i.e.*, grading and contouring) to the gravel road surface and slope from the edge of the shoulder to the bottom of the ditch or to the bottom of the roadway fill. This will avoid the area where Kincaid's lupine and consequently Fender's blue butterfly most often occur.

5. Designating and managing conservation areas for the covered species on County land, which includes at least 1 acre at Deer Creek Park.

Mitigation under the HCP would be directly provided at a 2 to 1 acreage ratio (*i.e.*, 6.96 acres for 3.48 acres of impact), through habitat maintenance, enhancement, and avoidance measures in the "no impact zone" of the right-of-way and at the County-owned Deer Creek Park. Additional benefits to the covered species would occur in the "no impact zone" due to habitat enhancement activities, such as brush control, and other actions intended to reduce plant competition with native nectar plants, and the Fender's blue butterfly larval host plant, Kincaid's lupine.

National Environmental Policy Act Compliance

As described in our EAS screening form for low-effect HCP determinations, we have made the preliminary determination that approval of the proposed HCP and issuance of the permit would qualify as a categorical exclusion under NEPA (42 U.S.C. 4321 *et seq.*), as provided by Federal regulations (40 CFR part 1500, 5(k), 1507.3(b)(2), 1508.4), the Department of the Interior Manual (516 DM 2 and 516 DM 8) and our Habitat Conservation Planning Handbook (November 1996). Low-effect HCP determinations are based on the following three criteria: (1) Implementation of the proposed plan would result in minor or negligible effects on federally listed species and their habitats; (2) implementation of the proposed plan would result in minor or negligible effects on other environmental values or resources; and (3) impacts of the plan, considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not result, over time, in cumulative effects to environmental values or resources that would be considered significant.

Public Comments

We request data, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party on this notice. We particularly seek comments on the following: (1) Biological data or other information regarding the two covered species; (2) additional information concerning the range, distribution, population size, and population trends of the covered species; (3) current or planned activities in the subject area and their possible impacts on the covered species; (4) the presence of archeological sites, buildings and structures, historic events, sacred and traditional areas, and other historic preservation concerns, which are required to be considered in project planning by the National Historic Preservation Act; and (5) identification of any other environmental issues that should be considered with regard to the proposed development and permit action.

Public Availability of Comments

All comments and materials we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comments, 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. Comments and materials we receive, as well as supporting documentation we used in preparing the EAS, will be available for public inspection by appointment, during normal business hours, at the Service's Oregon Fish and Wildlife Office (see **ADDRESSES**).

Next Steps

The Service will evaluate the permit application, associated documents, and public comments submitted thereon to determine whether the permit application meets the requirements of section 10(a)(1)(B) of the ESA and NEPA regulations. The final NEPA and permit determinations will not be completed until after the end of the 30-day comment period and will fully consider all comments received during the comment period. If we determine that all requirements are met, we will issue an incidental take permit under section 10(a)(1)(B) of the ESA to the County for the take of the Fender's blue butterfly, incidental to otherwise lawful activities, caused by covered activities.

Authority

We provide this notice pursuant to the requirements of: section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR

17.22); and NEPA and its implementing regulations (40 CFR 1506.6).

Dated: October 1, 2012.

Paul Henson,

State Supervisor, Oregon Fish and Wildlife Office, Pacific Region, U. S. Fish and Wildlife Service, Portland, Oregon.

[FR Doc. 2012–24594 Filed 10–4–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–FHC–2012–N237; WBS: FXFR13360900000N5, Cost Center: FF09F14000, Fund: 134]

Aquatic Nuisance Species Task Force Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Aquatic Nuisance Species (ANS) Task Force. The ANS Task Force's purpose is to develop and implement a program for U.S. waters to prevent introduction and dispersal of aquatic nuisance species; to monitor, control, and study such species; and to disseminate related information. The meeting is open to the public.

DATES: The ANS Task Force will meet from 8:30 a.m. to 5:00 p.m. Wednesday November 14, and from 8:30 a.m. to 5:00 p.m. on Thursday November 15, 2012.

ADDRESSES: The ANS Task Force meeting will take place at the U.S. Fish and Wildlife Service building at 4401 North Fairfax Drive, Arlington, VA 22203. You may inspect minutes of the meeting at the office of the Chief, Division of Fisheries and Aquatic Resource Conservation, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Arlington, VA 22203, during regular business hours, Monday through Friday. You may also view the minutes on the ANS Task Force Web site at: *http://anstaskforce.gov/meetings.php.*

FOR FURTHER INFORMATION CONTACT: Susan Mangin, Executive Secretary, ANS Task Force, at (703) 358–2466, or by email at *Susan_Mangin@fws.gov.*

SUPPLEMENTARY INFORMATION:

Background

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), this notice announces meetings of the ANS Task Force. The ANS Task Force was established by the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (Pub. L. 106–580, as amended).

Agenda

Topics that the ANS Task Force plans to cover during the meeting include:

- ANSTF recreational guidelines,
- Species management and control plans,
- ANSTF Strategic Plan accomplishments tracking,
- Japanese tsunami marine debris, and
- Rapid screening for aquatic invasive species.

The agenda and other related meeting information are on the ANS Task Force Web site at: *http://anstaskforce.gov/meetings.php.*

Accessibility Information

The meeting location is accessible to wheelchair users. If you require additional accommodations, please notify us at least 1 week in advance of the meeting.

Authority

We publish this notice under section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.).

Dated: October 1, 2012.

John Schmerfeld,

Acting Co-Chair, Aquatic Nuisance Species Task Force, Assistant Director—Fisheries and Habitat Conservation.

[FR Doc. 2012–24644 Filed 10–4–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY910000 L16100000.XX0000]

Call for Nominations for the Wyoming Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to request public nominations to fill four positions for the Bureau of Land Management's (BLM) Wyoming's 10-member Resource Advisory Council (RAC). The RAC provides advice and recommendations to the BLM on land use planning and management of the National System of Public Lands within the State of Wyoming.

DATE: All nominations must be received no later than November 19, 2012.

ADDRESSES: Nominations should be sent to Ms. Cindy Wertz, Wyoming State Office, Bureau of Land Management, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, WY 82003, (307) 775–6014.

FOR FURTHER INFORMATION CONTACT: Ms. Cindy Wertz, Wyoming State Office, Bureau of Land Management, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, WY 82003, (307) 775–6014; or email *Cindy_Wertz@blm.gov.*

SUPPLEMENTARY INFORMATION: The Federal Land Policy and Management Act (FLPMA) (43 U.S.C. 1739) directs the Secretary of the Interior to involve the public in planning and issues related to management of lands administered by the Bureau of Land Management (BLM). Section 309 of FLPMA directs the Secretary to establish 10- to 15-member citizen-based advisory councils that are consistent with the Federal Advisory Committee Act (FACA). As required by FACA, RAC membership must be balanced and representative of the various interests concerned with the management of the public lands.

The RAC has one vacancy in category one (holders of Federal grazing permits or leases; representatives of organizations associated with energy and mineral development; timber industry; transportation or rights-of-way interests; developed outdoor recreation; off-highway vehicle use; or commercial recreation), one vacancy in category two (representatives of nationally or regionally recognized environmental organizations; archaeological and historic organizations; dispersed recreation activities; or wild horse and burro organizations), and two vacancies in category three (representatives of state, county, or local elected office; employees of a state agency responsible for management of natural resources; representatives of Indian tribes within or adjacent to the area for which the council is organized; representatives of academia who are employed in natural sciences or natural resource management; or the affected public-at-large). The individuals who are selected will fill 3-year terms. Nominees must be residents of Wyoming. The BLM will evaluate nominees based on their education, training, experience, and their knowledge of the geographic area. Nominees should demonstrate a commitment to collaborative resource decision-making. The Obama Administration prohibits individuals who are currently federally-registered lobbyists to serve on all FACA and non-FACA boards, committees, or councils. The following must accompany all nominations:

—Letters of reference from represented interest or organizations,

—A completed background information nomination form; and,

—Any other information that addresses the nominee's qualifications.

Simultaneous with this notice, the BLM Wyoming State Office will issue a press release providing additional information for submitting nominations. Nomination forms may also be downloaded from *http://www.blm.gov/wy/st/en/advcom/rac.html.*

Certification Statement: I hereby certify that the BLM Wyoming Resource Advisory Council is necessary and in the public interest in connection with the Secretary's responsibilities to manage the lands, resources, and facilities administered by the BLM.

Authority: 43 subpart 1784.

Donald A. Simpson,

State Director.

[FR Doc. 2012–24625 Filed 10–4–12; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLUTC00000–L51010000–ER0000–LVRWJ09J4050; UTU–83067]

Notice of Availability of Final Environmental Impact Statement for the Sigurd to Red Butte No. 2—345-Kilovolt Transmission Line Project; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 (NEPA) as amended and the Council on Environmental Quality regulations, the Bureau of Land Management (BLM) has prepared a Final Environmental Impact Statement (EIS) for the Sigurd to Red Butte No. 2—345-Kilovolt (kV) Transmission Line Project (Project) and by this notice announces the availability of the Final EIS for public review.

DATES: The document will be available for public review for 30 days following the publication of a Notice of Availability (NOA) in the **Federal Register** by the Environmental Protection Agency (EPA).

ADDRESSES: Copies of the Final EIS have been sent to affected Federal, State, and local government agencies and to other stakeholders. Copies are available for public review at the following offices:

- BLM Cedar City Field Office, 176 East D.L. Sargent Drive, Cedar City, Utah 84721
- BLM Richfield Field Office, 150 East, 900 North, Richfield, Utah 84701
- BLM Fillmore Field Office, 35 East, 500 North, Fillmore, Utah 84631
- Dixie National Forest Office, 1789 North Wedgewood Lane, Cedar City, Utah 84721
- Fishlake National Forest Office, 115 East 900 North, Richfield, Utah 84701

FOR FURTHER INFORMATION CONTACT: For further information, contact Tamara Gertsch, National Project Manager; telephone 307–775–6115; email *utsrbproj@blm.gov;* address BLM Cedar City Field Office, 176 East D.L. Sargent Drive, Cedar City, Utah 84721. 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. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: PacifiCorp, doing business as Rocky Mountain Power (Proponent), has filed applications for a right-of-way across lands administered by the BLM and a special use permit across lands administered by the United States Forest Service (USFS) and is proposing to construct, operate, and maintain the Project, a single-circuit, alternating current 345-kV, overhead transmission line. If approved, the BLM would issue a right-of-way grant and the USFS would issue a special-use permit authorization for the transmission line and associated facilities. The transmission line would be located between the existing Sigurd Substation near Richfield in Sevier County, Utah, and the existing Red Butte Substation near the community of Central in Washington County, Utah, a distance of approximately 170 miles, depending on the route selected. The Project also includes the addition of new substation equipment for interconnecting the transmission line at the existing Sigurd Substation. When completed, the Project would provide about 600 megawatts of electrical capacity to respond to anticipated load growth in southwestern Utah. Alternative routes considered in the Final EIS cross Federal, State, tribal, and private lands. The requested right-of-way width on Federal lands for construction and operation of the Project is 150 feet. The Proponent plans to use predominantly steel-pole H-frame tower structures from 80 to 140 feet in height with average spans between structures of 800 to 1,200 feet (5 to 7 structures per mile). Permanent and temporary access roads, a minimum of 14-feet wide, would be needed for the majority of the Project. Temporary access roads would be needed for construction only. Temporary work space would be needed during construction for material storage, conductor tensioning sites, and to accommodate vehicles and equipment.

Under Federal law, the BLM is responsible for responding to applications for rights-of-way on BLM-administered lands. Similarly, under Federal law, the USFS is responsible for responding to applications for special-use permits on lands they administer. In accordance with NEPA, the BLM prepared a Draft EIS using an interdisciplinary approach in order to consider a variety of resource issues and concerns identified during internal, interagency, and public scoping. An updated inventory of lands with wilderness characteristics was used for this project and lands with wilderness characteristics were analyzed in the Draft EIS and Final EIS. An NOA for the Draft EIS for the Project was published by the EPA in the **Federal Register** on June 3, 2011 (ER–FRL–8997–3), initiating a 45-day public comment period. In addition, the BLM conducted four open-house meetings in June 2011. Comments received on the Draft EIS were incorporated, where appropriate, to clarify the analysis presented and are included in the Final EIS. The Final EIS analyzes 13 alternative routes and 2 route variations on Federal lands, including the Agency Preferred Alternative.

BLM is the designated lead Federal agency for preparation of the EIS as defined at 40 CFR 1501.5. Agencies with legal jurisdiction or special expertise participating as cooperating agencies in preparation of the EIS include: USFS (Dixie and Fishlake National Forests); United States Army Corps of Engineers; National Park Service; the State of Utah; Utah School and Institutional Trust Lands Administration; Millard, Sevier, Beaver, Iron, and Washington Counties, Utah; and the cities of St. George and Enterprise, Utah.

In response to Section 368 of the Energy Policy Act of 2005 (42 U.S.C. 15926), a Programmatic EIS was prepared by the Department of the Interior and Department of Energy for energy corridors in the 11 Western states (including Washington, Oregon, Idaho, Montana, Wyoming, California, Nevada, Utah, Colorado, Arizona, and New Mexico). An NOA of the Final Programmatic EIS was published in the **Federal Register** on November 28, 2008 (73 FR 72521). Records of Decision (ROD) on the *Programmatic Environmental Impact Statement, Designation of Energy Corridors on Federal Land in the 11 Western States (DOE/EIS–0386),* signed January 14, 2009, designate energy corridors and

provide guidance, best management practices, and mitigation measures to be used where linear facilities are proposed crossing Federal lands. Where the Programmatic EIS identifies new corridors for the managing agencies, the RODs also amend relevant BLM Resource Management Plans and USFS Land and Resource Management Plans to include the new corridors. Designation of corridors does not require their use, nor does such designation exempt the Federal agencies from conducting an environmental review on each project. The BLM has considered the use of the corridors in preparation of the Sigurd to Red Butte EIS and has incorporated best management practices and mitigation measures.

Documents pertinent to the right-of-way application and the Final EIS for the Project may be viewed on the BLM's project Web site at: *http://www.blm.gov/ut/st/en/fo/cedar_city/planning/sigurd_to_red_butte.html* or examined at the addresses listed in this notice.

Authority: 40 CFR 1502.19.

Juan Palma,

State Director.

[FR Doc. 2012–24521 Filed 10–4–12; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVSO2000–L12320000–DA0000–LVRDNV010000 241A; 12–08807; MO# 4500033317; TAS: 14X5413]

Notice of Intent To Prepare a Resource Management Plan Amendment and Associated Environmental Assessment To Address Use of Permanent Fixed Anchors for BLM Wilderness in Red Rock Canyon National Conservation Area, Clark County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) Southern Nevada District, the BLM Red Rock/Sloan Field Office, Las Vegas, Nevada, intends to prepare a Resource Management Plan (RMP) amendment with an associated Environmental Assessment (EA) to consider new management decisions for permanent fixed anchors for recreational rock climbing within the BLM portions of the La Madre Mountain Wilderness and Rainbow Mountain Wilderness Areas for the Red Rock Canyon National Conservation Area. This notice marks the beginning of the scoping process to solicit input on issues and the proposed planning criteria.

DATES: This notice initiates a 45-day public scoping period for the RMP amendment with associated EA. Comments on issues may be submitted in writing until November 19, 2012. The date(s) and location(s) of any scoping meetings will be announced at least 15 days in advance through local media, newspapers, and the BLM Web site at: *http://www.blm.gov/nv/st/en/fo/lvfo.html.* In order to be included in the EA, all comments should be submitted prior to the close of the 45-day scoping period.

ADDRESSES: You may submit comments on issues and planning criteria related to the RMP amendment and associated EA for the Red Rock Canyon National Conservation Area by any of the following methods:

- *Web site: http://www.blm.gov/nv/st/en/fo/lvfo.html.*
- *Email: rrc_fixedanchors@blm.gov.*
- *Fax:* 702–363–6779, attention Nick Walendziak.
- *Mail:* 4701 N. Torrey Pines Dr., Las Vegas, NV 89130.

Documents pertinent to this proposal may be examined at the Red Rock/Sloan Field Office, 4701 N. Torrey Pines Dr., Las Vegas, Nevada.

FOR FURTHER INFORMATION CONTACT: For further information and/or to have your name added to our mailing list, contact Nick Walendziak, Outdoor Recreation Planner, Climbing Lead, telephone: 702–515–5358; address: 4701 N. Torrey Pines Dr., Las Vegas, NV 89130; email: *nwalendziak@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The BLM is proposing to amend the Red Rock Canyon National Conservation Area RMP/Record of Decision signed in 2005, which set forth management decisions on the use of fixed anchors for the La Madre Mountain and Rainbow Mountain Wilderness Areas. At the time of that planning decision, these areas were Wilderness Study Areas (WSAs) governed by the 1995 Interim Management Policy (IMP) and Guidance for Lands Under Wilderness Review. There is a need to amend this RMP since these areas are now congressionally designated as wilderness and are no longer WSAs governed by the IMP.

The planning area is located in Clark County, Nevada, and encompasses approximately 48,340 acres of public land (28,115 acres within the La Madre Mountain Wilderness and 20,225 acres within the Rainbow Mountain Wilderness). The purpose of the public scoping process is to identify relevant issues for the environmental analysis, including alternatives, and to identify criteria to guide the planning process. Preliminary issues identified by the BLM and other stakeholders include:

- Protecting public health and safety
- Increasing demand for more recreation opportunities
- Addressing the appropriateness of fixed anchors in Wilderness
- Compliance with BLM Manual 6340, Management of Designated Wilderness Areas
- Proximity of wilderness areas to major urban interface
- Protection of cultural and sensitive species
- Protection of visual and scenic objectives

Planning criteria are constraints or ground rules that guide and direct the development of the RMP amendment. The criteria ensure that the RMP amendment is tailored to the identified issues while avoiding unnecessary data collection and analyses. The following criteria may be adjusted during the RMP amendment development based on management concerns and the results of the overall public scoping process:

- The RMP amendment assessment, analysis, and proposed decisions will focus on whether permanent fixed anchors should be considered for rock climbing within the designated Wilderness Areas.
- The RMP amendment process will comply with the BLM's policies in the *Land Use Planning Handbook, H–1601,* the *National Environmental Policy Act Handbook H–1790–1, Manual 6340, Management of Designated Wilderness Areas* and all other applicable laws, regulations, and policies.
- The RMP amendment will incorporate, where applicable, management decisions brought forward from existing planning documents.
- Geographic Information System (GIS) data and metadata will meet Federal Geographic Data Committee (FGDC) standards, as required by Executive Order 12906. All other

applicable BLM data standards will be followed.

- Broad-based public participation and collaboration will be an integral part of the planning process. The BLM will work collaboratively with all interested groups, agencies, and individuals and consult with tribes.
- Planning and management direction will focus on resource values rather than the combination of uses that would give the greatest economic return or economic output.
- Where practicable, the best available science and information will be used.

The proposal to amend the RMP would only affect the BLM portions of the La Madre Mountain and Rainbow Mountain Wilderness Areas. Management decisions on fixed anchors on the U.S. Forest Service portions of these wilderness areas will be included in the ongoing joint BLM/U.S. Forest Service La Madre Mountain and Rainbow Mountain Wilderness Plan.

The public is also encouraged to help identify management questions and concerns that should be addressed in the plan. The BLM will work collaboratively with interested parties to identify the management decisions that are best suited to local, regional, and national needs and concerns.

The BLM will use an interdisciplinary approach to develop the plan in order to consider the variety of resource issues and concerns identified. Specialists with expertise in the following disciplines will be involved in the planning process: wilderness, rangeland management, fire, minerals and geology, forestry, recreation, archaeology, paleontology, wildlife and fisheries, botany, lands and realty, hydrology, soils, sociology and economics.

You may submit comments on issues and planning criteria in writing to the BLM at any public scoping meeting, or you may submit them to the BLM using one of the methods listed in the **ADDRESSES** section above. To be most helpful, you should submit comments by the close of the 45-day scoping period. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1501.7, 43 CFR 1610.2.

Mark Spencer,
Field Manager.

[FR Doc. 2012–24622 Filed 10–4–12; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAK930000.L13100000.EI0000.241A]

Notice of National Petroleum Reserve-Alaska Oil and Gas Lease Sale 2012 and Notice of Availability of the Detailed Statement of Sale for Oil and Gas Lease Sale 2012 in the National Petroleum Reserve—Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management's (BLM) Alaska State Office, under the authority of 43 CFR 3131.4–1(a), hereby notifies the public that it will hold a National Petroleum Reserve-Alaska oil and gas lease sale bid opening for tracts in the Northeast and Northwest Planning Areas. The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid.

DATES: The oil and gas lease sale bid opening will be held at 1 p.m. on Wednesday, Nov. 7, 2012. Sealed bids must be received by 4 p.m., Monday, Nov. 5, 2012.

ADDRESSES: The oil and gas lease sale bids will be opened at the Anchorage Federal Building, Denali Room (fourth floor), 222 W. 7th Ave., Anchorage, Alaska. Sealed bids must be sent to Carol Taylor (AK932), BLM—Alaska State Office; 222 West 7th Avenue, #13; Anchorage, AK 99513–7504.

FOR FURTHER INFORMATION CONTACT: Wayne Svejnoha, 907 271–4407. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: All bids must be submitted by sealed bid in accordance with the provisions identified in the Detailed Statement of Sale. They must be received at the BLM—Alaska State Office, ATTN: Carol Taylor (AK932); 222 West 7th Avenue, #13; Anchorage, AK 99513–7504; no later than 4 p.m., Monday, November 5, 2012.

The Detailed Statement of Sale for the National Petroleum Reserve—Alaska Oil and Gas Lease Sale 2012 will be available to the public immediately after publication of this Notice in the **Federal Register**. The Detailed Statement may be obtained from the BLM—Alaska Web site at *www.blm.gov/ak*, or by request from the Public Information Center, BLM—Alaska State Office; 222 West 7th Ave., #13; Anchorage, AK 99513–7504; telephone 907 271–5960. The Detailed Statement of Sale will include a description of the areas to be offered for lease, the lease terms, conditions, special stipulations, required operating procedures, and how and where to submit bids.

Authority: 43 CFR 3131.4–1 and 43 U.S.C. 1733 and 1740.

Bud C. Cribley,
State Director.

[FR Doc. 2012–24520 Filed 10–4–12; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CACA 53279, LLCA9300000, L541000000]

Notice of Realty Action: Notice of Receipt of Conveyance of Mineral Interest Application, Santa Clara County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: An application was filed on January 24, 2012, by the surface owner, Charles Luckhardt, *et al.*, for the conveyance of the federally owned mineral interests underlying a 1,148.68 acre tract of land in Santa Clara County, California. Publication of this notice temporarily segregates the mineral interests in the land covered by the application from all forms of appropriation under the public land laws, including the mining laws, for up to 2 years from the date of filing of the application while the application is being processed.

FOR FURTHER INFORMATION CONTACT: Brandon G. Anderson, Realty Specialist, Bureau of Land Management, California State Office, 2800 Cottage Way, Sacramento, California 95825, or phone 916–978–4674.

SUPPLEMENTARY INFORMATION: The tract of land referred to in this notice consists of a 1,148.68 acres situated in Santa Clara County, California, and is described as follows:

Mount Diablo Meridian

T. 7 S., R. 4 E.,
Sec. 1, W½SW¼;
Sec. 2, lots 2 to 4, inclusive, SW¼NE¼, S½NW¼, SW¼, and N½SE¼;
Sec. 3, lots 1 and 2, S½NE¼, N½SE¼, and SE¼SE¼;
Sec. 12, W½NE¼, NW¼, and N½SE¼.

The area described contains 1,148.68 acres in Santa Clara County.

Under certain conditions, Section 209(b) of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1719 (FLPMA) authorizes the sale and conveyance of the federally owned mineral interests in land when the non-mineral (or so called surface interest in land) is not federally owned. The objective is to allow consolidation of the surface and mineral interests when either one of the following conditions exist: (1) There are no known mineral values in the land; or (2) where continued Federal ownership of the mineral interests interferes with or precludes appropriate non-mineral development and such development is a more beneficial use of the land than mineral development.

An application was filed for the sale and conveyance of the federally owned mineral interests in the above-described tract of land. Subject to valid existing rights, on October 5, 2012 the federally owned mineral interests in the land described above are hereby segregated from all forms of appropriation under the public land laws, including the mining laws, while the application is being processed to determine if either one of the two specified conditions exists and, if so, to otherwise comply with the procedural requirements of 43 CFR part 2720. The temporary segregative effect shall terminate: (1) Upon issuance of a patent or other document of conveyance as to such mineral interests; (2) Upon final rejection of the application; or (3) Two years after the date that the application was filed, whichever occurs first.

Authority: 43 CFR 2720.1–1(b).

Cynthia Staszak,

Associate Deputy State Director, Natural Resources.

[FR Doc. 2012–24627 Filed 10–4–12; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCA930000.L1430000.EU0000. CACA 053115]

Notice of Realty Action: Direct Sale of Public Land in Shasta County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM), Redding Field Office, proposes to sell a parcel of public land totaling approximately 40 acres in Shasta County, California. The public land would be sold to John and Tina Dunlap for the appraised fair market value of $43,000.

DATES: Comments regarding the proposed sale must be received by the BLM on or before November 19, 2012.

ADDRESSES: Written comments concerning the proposed sale should be sent to the Field Manager, BLM, Redding Field Office, 355 Hemsted Drive, Redding, California 96002.

FOR FURTHER INFORMATION CONTACT: Ilene Emry, Realty Specialist, BLM, Redding Field Office, or phone 530–224–2122. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question for the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The following public land is proposed for direct sale in accordance with Sections 203 and 209 of the Federal Land Policy and Management Act of 1976 (FLPMA), as amended (43 U.S.C. 1713 and 1719).

Mount Diablo Meridian

T. 34 N., R. 1 W.,
Sec. 21, SE¼NW¼.

The area described contains 40 acres in Shasta County.

The public land was first identified as suitable for disposal by exchange in the 1993 BLM Redding Resource Management Plan (RMP). The Redding RMP was amended in 2005 to identify the land as available for sale. The land is not needed for any other Federal purpose and its disposal would be in the public interest. The purpose of the sale is to dispose of public land which is difficult and uneconomic to manage as part of the public lands and is not suitable for management by another Federal department or agency. The land proposed for sale is considered to be difficult and uneconomic to manage because it lacks legal access and is isolated from other public lands in the region. The BLM is proposing a direct sale to John and Tina Dunlap, who own all the private land surrounding the public land proposed for sale. The BLM has concluded that a competitive sale is not appropriate and that the public interest would best be served by a direct sale to Mr. and Mrs. Dunlap. The BLM has completed a mineral potential report which concluded that there are no known mineral values on the land proposed for sale. The BLM proposes to convey all mineral interests in land proposed for sale. The conveyance of all Federal mineral interests would occur simultaneously with the sale of the land. The purchaser would be required to pay a $50 nonrefundable filing fee for processing the conveyance of the mineral interests.

On October 5, 2012, the above described land will be segregated from all forms of appropriation under the public land laws, including the mining laws, except for the sale provisions of the FLPMA. Until completion of the sale, the BLM will no longer accept land use applications affecting the identified public land, except applications for the amendment of previously filed right-of-way applications or existing authorizations to increase the term of the grants in accordance with 43 CFR 2802.15 and 2886.15. The temporary segregation will terminate upon issuance of a patent, publication in the **Federal Register** of a termination of the segregation, or on October 6, 2014, unless extended by the BLM State Director in accordance with 43 CFR 2711.1–2(d) prior to the termination date. The land would not be sold until at least December 4, 2012. Any conveyance document issued would contain the following terms, conditions, and reservations:

1. A reservation of a right-of-way to the United States for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945);

2. A condition that the conveyance be subject to all valid existing rights of record;

3. An appropriate indemnification clause protecting the United States from claims arising out of the patentee's use, occupancy, or operations on the patented lands; and

4. Additional terms and conditions that the authorized officer deems appropriate.

Detailed information concerning the proposed sale including the appraisal, planning and environmental

documents, and mineral report are available for review at the location identified in **ADDRESSES** above.

Public Comments regarding the proposed sale may be submitted in writing to the attention of the BLM Redding Field Manager (see **ADDRESSES** above) on or before November 19, 2012. Comments received in electronic form, such as email will not be considered. Any adverse comments regarding the proposed sale will be reviewed by the BLM State Director or other authorized official of the Department of the Interior, who may sustain, vacate, or modify this realty action in whole or in part. In the absence of timely filed objections, this realty action will become the final determination of the Department of the Interior. Before including your address, phone number, email address, or other personal identifying information in your comment, be advised 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 from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Authority: 43 CFR 2711.1–2(a) and (c).

Cynthia Staszak,

Associate Deputy State Director for Natural Resources.

[FR Doc. 2012–24632 Filed 10–4–12; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NCR–WHHO–11368; 3950–SZM]

Notice of Public Meeting and Request for Comments

AGENCY: National Park Service, Interior.

ACTION: Notice/Request for public meeting and public comments—The National Christmas Tree Lighting and the subsequent 26-day event.

SUMMARY: The National Park Service is seeking public comments and suggestions on the planning of the 2012 National Christmas Tree Lighting and the subsequent 26-day event. The general plan and theme for the event is the celebration of the holiday season with the display of the traditional American symbols of Christmas.

DATES: The meeting will be held on Friday, November 2, 2012. Written comments will be accepted until November 2, 2012.

ADDRESSES: The meeting will be held at 9 a.m. on November 2, 2012, in Room 234 of the National Capital Region Headquarters Building, at 1100 Ohio Drive SW., Washington, DC (East Potomac Park). Written comments may be sent to the Manager President's Park, National Park Service, 1100 Ohio Drive SW., Washington, DC 20242. Due to delays in mail delivery, it is recommended that comments be provided by telefax at (202) 208–1643 or by email to *ScottTucker@nps.gov*. Comments may also be delivered by messenger to the White House Visitor Center at 1450 Pennsylvania Avenue NW., in Washington, DC.

FOR FURTHER INFORMATION CONTACT: Scott Tucker at the White House Visitor Center weekdays between 9 a.m., and 4 p.m., at (202) 208–1631.

SUPPLEMENTARY INFORMATION: The National Park Service is seeking public comments and suggestions on the planning of the 2012 National Christmas Tree Lighting and the subsequent 26-day event, which opens on December 6, 2012, on the Ellipse (President's Park), south of the White House. The general plan and theme for the event is the celebration of the holiday season, where the park visitor will have the opportunity to view that lighting of the National Christmas tree, attend musical presentations and visit the yuletide displays of the traditional and familiar American symbols of Christmas, a national holiday. As in the past, these traditional and familiar American symbols will be the National Christmas Tree, the smaller trees representing the various states, District of Columbia and the territories, a burning yule log, various seasonal musical presentations, and a traditional creche which is not owned by the Government.

In order to facilitate this process the National Park Service will hold a meeting at 9 a.m. on November 2, 2012, in Room 234 of the National Capital Region Headquarters Building, at 1100 Ohio Drive SW., Washington, DC (East Potomac Park).

Persons who would like to comment at the meeting should notify the National Park Service by November 1, 2012, by calling the White House Visitor Center weekdays between 9 a.m., and 4 p.m., at (202) 208–1631.

In addition public comments and suggestions on the planning of the 2012 National Christmas Tree Lighting and the subsequent 26-day event may be submitted in writing. Written comments may be sent to the Manager, President's Park, National Park Service, 1100 Ohio Drive SW., Washington, DC 20242, and will be accepted until November 2, 2012. Before including your address, phone number, email address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Dated: September 28, 2012.

John Stanwich,

Deputy National Park Service Liaison to the White House.

[FR Doc. 2012–24591 Filed 10–4–12; 8:45 am]

BILLING CODE 4310–DL–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–AKR–DENA–11251; 9832–0246–703]

Notice of Meeting for the Denali National Park and Preserve Aircraft Overflights Advisory Council Within the Alaska Region

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The National Park Service (NPS) announces a meeting of the Denali National Park and Preserve Aircraft Overflights Advisory Council. The purpose of this meeting is to discuss mitigation of impacts from aircraft overflights at Denali National Park and Preserve. The Aircraft Overflights Advisory Council is authorized to operate in accordance with the provisions of the Federal Advisory Committee Act.

Public Availability of Comments: These meetings are open to the public and will have time allocated for public testimony. The public is welcome to present written or oral comments to the Aircraft Overflights Advisory Council. Each meeting will be recorded and meeting minutes will be available upon request from the park superintendent for public inspection approximately six weeks after each meeting. Before including your address, telephone 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.

DATES: The Denali National Park and Preserve Aircraft Overflights Advisory

Council meeting will be held on Friday, October 26, 2012, from 9 a.m. to 5 p.m., Alaska Standard Time. The meeting may end early if all business is completed.

Location: National Park Service, Alaska Regional Office, 240 West 5th Avenue, Room 518, Anchorage, AK 99501; Telephone (907) 644–3510.

FOR FURTHER INFORMATION CONTACT: Miriam Valentine, Denali Planning. Email: *Miriam_Valentine@nps.gov;* Telephone: (907) 733–9102 at Denali National Park, Talkeetna Ranger Station, P.O. Box 588, Talkeetna, AK 99676. For accessibility requirements, please call Miriam Valentine at (907) 733–9102.

SUPPLEMENTARY INFORMATION: Meeting location and dates may need to be changed based on weather or local circumstances. If the meeting dates and location are changed, notice of the new meeting will be announced on local radio stations and published in local newspapers.

Agenda

The agenda for the meetings will include the following, subject to minor adjustments:

1. Call to Order
2. Roll Call and Confirmation of Quorum
3. Chair's Welcome and Introductions
4. Review and Approve Agenda
5. Member Reports
6. Agency and Public Comments
7. Superintendent and NPS Staff Reports
8. Agency and Public Comments
9. Other New Business
10. Agency and Public Comments
11. Set Time and Place of Next Advisory Council Meeting
12. Adjournment

Joel Hard,

Deputy Regional Director, Alaska Region.

[FR Doc. 2012–24584 Filed 10–4–12; 8:45 am]

BILLING CODE 4310–PF–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–659]

Certain Prepregs, Laminates, and Finished Circuit Boards: Notice of Institution of Formal Enforcement Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has instituted a formal enforcement proceeding relating to the April 10, 2009, consent order issued in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: James A. Worth, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–3065. Copies of all nonconfidential documents filed in connection with this investigation are or 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 (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov/*. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: This investigation was instituted on November 12, 2008, based upon a complaint filed on behalf of Isola USA Corp. of Chandler, Arizona ("Isola") on October 6, 2008, and supplemented on October 28, 2008. 73 FR 66919 (November 12, 2008). The complaint alleged 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 prepregs, laminates, and finished circuit boards that infringe certain claims of United States Patent Nos. 6,187,852 ("the '852 patent"); 6,322,885 ("the '885 patent"); and 6,509,414 ("the '414 patent"). The notice of investigation named seven firms as respondents.

On December 22, 2008, the Commission issued notice of its determinations not to review IDs terminating the investigation with respect to respondents Sanmina-SCI Corp. and ITEQ Corp. based on settlement agreements. On January 9, 2009, the Commission issued notice of its determination not to review an ID terminating the investigation with respect to the '414 patent. On May 19, 2009, the Commission issued notice of its determination not to review an ID terminating the investigation as to respondents VENTEC Electronics (Suzhou) Co., Ltd., VENTEC Electronics (HK) Co., Ltd., and VENTEC-Global Laminates USA LLC based on a consent order. On April 10, 2009, the Commission issued notice of its determination not to review an ID granting a joint motion to terminate the investigation as to Taiwan Union Technology Corp. ("TUC") based on a consent order. On May 11, 2009, the Commission issued notice of its determination not to review an ID granting Isola's motion to withdraw the complaint as to respondent Guangdong Shengyi Sci. Tech Co., Ltd., and terminated the investigation.

On August 14, 2012, Isola filed a complaint for enforcement proceedings under Commission Rule 210.75(b). Isola asserts that TUC has violated the April 10, 2009, consent order by importing or causing to be imported infringing articles identified as TU–862 HF and TU–86P HF. The consent order at issue prohibited activities such as importing, offering for sale, and selling for importation into the United States prepregs and laminates that are the subject of this investigation or that otherwise infringe, induce, and/or contribute to the infringement of claims 1–3, 5, and 8 of the '852 patent and claims 1, 2, 4, and 7–9 of the '885 patent.

Having examined the complaint seeking a formal enforcement proceeding, and having found that the complaint complies with the requirements for institution of a formal enforcement proceeding contained in Commission Rule 210.75, the Commission has determined to institute formal enforcement proceedings to determine whether TUC is in violation of the April 10, 2009, consent order issued in the investigation. and what, if any, enforcement measures are appropriate. The following entities are named as parties to the formal enforcement proceeding: (1) Isola; (2) respondent TUC; and (3) the Office of Unfair Import Investigations.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in section 210.75 of the Commission's Rules of Practice and Procedure (19 CFR 210.75).

By Order of the Commission.

Issued: October 2, 2012.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2012–24642 Filed 10–4–12; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–537]

Olive Oil: Conditions of Competition Between U.S. and Major Foreign Supplier Industries

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of hearing.

SUMMARY: Following receipt on September 12, 2012, of a request from the Committee on Ways and Means (Committee) of the House of Representatives under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), the U.S. International Trade Commission (Commission) instituted investigation No. 332–537, *Olive Oil: Conditions of Competition between U.S. and Major Foreign Supplier Industries.*

DATES:

November 14, 2012: Deadline for filing requests to appear at the public hearing.

November 21, 2012: Deadline for filing prehearing briefs and statements.

December 5, 2012: Public hearing.

December 12, 2012: Deadline for filing posthearing briefs and statements.

February 12, 2013: Deadline for filing all other written submissions.

August 12, 2013: Transmittal of Commission report to the Committee.

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: Project leader Brendan Lynch (202–205–3313 or *brendan.lynch@usitc.gov*) or deputy project leader Alison Rozema (202–205–3458 or *alison.rozema@usitc.gov*) for information specific to this investigation. For information on the legal aspects of this investigation, 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: As requested by the Committee, the Commission will conduct an investigation and prepare a report on the conditions of competition between U.S. and major foreign supplier industries. As requested and to the extent that information is publicly available, the report will include the following—

1. An overview of the commercial olive oil industry in the United States and major supplier countries, including production of olives for olive oil processing, planted acreage and new plantings, processing volumes, processing capacity, carry-over inventory, and consumption;

2. Information on the international market for olive oil, including U.S. and foreign supplier imports and exports of olive oil in its various forms, olive oil trade between the European Union and North African countries, and a history of the tariff treatment and classification of olive oil in the United States and major supplier countries;

3. A qualitative and, to the extent possible, quantitative assessment of the role of imports, standards and grading, prices, and other factors on olive oil consumption in the U.S. market; and

4. A comparison of the competitive strengths and weaknesses of the commercial olive production and olive oil processing industries in the major producing countries and the United States, including factors such as industry structure, input production costs and availability, processing technology, product innovation, government support and other government intervention, exchange rates, and pricing and marketing regimes, plus the steps each respective industry is taking to increase its competitiveness.

The Committee asked that the report focus primarily on the period 2008–2012 and that the Commission deliver its report by August 12, 2013. The Committee also stated that it intends to make the Commission's report public.

Public Hearing: The Commission will hold a public hearing in connection with this investigation at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC, beginning at 10:30 a.m. on Wednesday, December 5, 2012. Requests to appear at the public hearing should be filed with the Secretary not later than 5:15 p.m., November 14, 2012, in accordance with the requirements in the "Submissions" section below. All prehearing briefs and statements should be filed with the Secretary not later than 5:15 p.m., November 21, 2012; and all posthearing briefs and statements responding to matters raised at the hearing should be filed with the Secretary not later than 5:15 p.m., December 12, 2012. All hearing-related briefs and statements should be filed in accordance with the requirements for filing written submissions set out below. In the event that, as of the close of business on November 14, 2012, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or nonparticipant may call the Office of the Secretary (202–205–2000) after November 14, 2012, for information concerning whether the hearing will be held.

Written Submissions: In lieu of or in addition to participating in the hearing, interested parties are invited to file written submissions concerning this investigation. All written submissions should be addressed to the Secretary, and all such submissions (other than prehearing and posthearing briefs and statements) should be received not later than 5:15 p.m., February 12, 2013. All written submissions must conform with 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 p.m. 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 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 with 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 "nonconfidential"

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.

In the request letter, the Committee stated that it intends to make the Commission's report available to the public in its entirety, and asked that the Commission not include any confidential business information in the report it sends to the Committee. Any confidential business information received by the Commission in this investigation and used in preparing this report will not be published in a manner that would reveal the operations of the firm supplying the information.

By order of the Commission.

Issued: October 1, 2012.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. 2012–24529 Filed 10–4–12; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree Clean Air Act

On October 1, 2012, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of New Jersey in the lawsuit entitled *United States and State of New Jersey* v. *Durand Glass Manufacturing Company, Inc.*, Civil Action No. 1:12–cv–06115–RBK–JS.

The action involves alleged violations of the Clean Air Act, 42 U.S.C. 7401, *et seq.*, and N.J.A.C. 7:27–22.1, *et seq.*, at Durand Glass Manufacturing Company, Inc.'s facility located in Millville, New Jersey, in regard to Durand's failure to comply with prevention of significant deterioration, new source review, and permit requirements. The action seeks civil penalties and injunctive relief. Pursuant to the Decree, Durand will pay a civil penalty of $300,000 (based on Durand's inability to pay a larger penalty), and agreed to install advanced emission control devices on the three glass furnaces at the facility.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States, et al.* v. *Durand Glass Manufacturing Company, Inc.*, D.J. Ref. No. 90–5–2–1–09182. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $18.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Ronald Gluck,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2012–24562 Filed 10–4–12; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act and Safe Drinking Water Act

On September 28, 2012, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Eastern District of Pennsylvania in the lawsuit entitled *United States et al.* v. *GSP Management Company, et al.*, Civil Action No. 12–5553.

The Consent Decree resolves alleged violations of the Clean Water Act and Safe Drinking Water Act at mobile home parks operated by defendants in Pennsylvania, Delaware and Virginia. The defendants treat sewage and provide drinking water at a number of its mobile home parks and illegally discharged sewage, failed to properly operate and maintain treatment facilities, exceeded federal drinking water standards for certain pollutants and failed to notify residents about drinking water problems. The Consent Decree requires payment of a civil penalty of $1,339,000, hiring a third party environmental consultant to perform environmental audits at each mobile home park, implementing corrective measures, conducting regular inspections, and developing a company-wide environmental management system.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States et al.* v. *GSP Management Company, et al.* D.J. Ref. No. 90–5–1–1–10286. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email ...	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $15.25 for a paper copy of the Consent Decree without the exhibits, and $52.00 for a paper copy of the Consent Decree and all exhibits (25 cents per page reproduction cost) payable to the United States Treasury.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2012–24537 Filed 10–4–12; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–0140]

Agency Information Collection Activities; Proposed Collection; Comments Requested: OJP Standard Assurances Form

ACTION: 60-Day Notice.

The Department of Justice, Office of Justice Programs will be submitting the following information collection request

to the Office of Management and Budget (OMB) for review and clearance in accordance with review procedures of the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. If granted, the approval is valid for three years. Comments will be accepted for 60 days until December 4, 2012. This process is conducted in accordance with 5 CFR 1320.10.

All comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to should be directed to Kristopher Brambila, Attorney Advisor, United States Department of Justice, Office Justice Programs, Office of the General Counsel, 810 7th Street NW., Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical. or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information

(1) *Type of information collection:* Extension, without change of a currently approved collection.

(2) *The title of the form/collection:* OJP Standard Assurances.

(3) *Agency Form Number:* None. Component Sponsoring Collection: Office of Justice Programs, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract. Primary:* Applicants for grants funded by the Office of Justice Programs. Other: None. The purpose of the Standard Assurances form is to obtain the assurance/certification of each applicant for OJP funding that it will comply with the various crosscutting regulatory and statutory requirements that apply to OJP grantees, and to set out in one easy-to-reference document those requirements that most frequently impact OJP grantees.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* Total of 8,250 respondents estimated, at 20 minutes each.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated total public burden associated with this information is 3,500.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 2E–508, Washington, DC 20530.

Jerri Murray,

Department Clearance Officer, PRA, Department of Justice.

[FR Doc. 2012–24612 Filed 10–4–12; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–73,843]

Hasbro, Inc.; Hasbro Managerial Services, Inc., Including On-Site Leased Workers of Entegee East Longmeadow, MA

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 July 7, 2010, applicable to workers and former workers of Hasbro, Inc., Hasbro Managerial Services, Inc., East Longmeadow, Massachusetts. The subject firm was engaged in activities related to the production of board games, card games, puzzles, and toys.

At the request of the Commonwealth of Massachusetts, the Department reviewed the certification.

New information revealed that employees of Entegee worked on-site at the subject firm during the relevant period and that the subject firm had sufficient control over the leased workers for the Department to determine that there was operational control of the leased workers by the subject firm.

The amended notice applicable to TA–W–73,843 is hereby issued as follows:

All workers of Hasbro, Inc., Hasbro Managerial Services, Inc., including on-site leased workers of Entegee, East Longmeadow, Massachusetts, who became totally or partially separated from employment on or after February 22, 2010, through July 7, 2012, and all workers in the group threatened with total or partial separation from employment on July 7, 2012 through July 7, 2012, 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 20th day of September, 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–24558 Filed 10–4–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–81,726 *et al.*]

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

TA–W–81,726
Cinram Manufacturing, LLC (Currently Doing Business as Cinram Group Inc.), A Subsidiary of Cinram International, Including On-Site Leased Workers From Onesource Staffing Solutions, Olyphant, PA

TA–W–81,726A
Cinram Distribution, LLC (Currently Doing Business as Cinram Group Inc.), A Subsidiary of Cinram International, Including On-Site Leased Workers From Ambassador Personnel, Select Remedy Staffing, and Wood Personnel Services, Lavergne, TN

TA–W–81,726B
Leased Workers From ERG Staffing Service and AA Temporary Services, Inc., Working On-Site At Cinram Manufacturing, LLC (Currently Doing Business as Cinram Group Inc.), Olyphant, PA

TA–W–81,726C
Leased Workers from AFEEA, All-Star, and Elwood, Working On-Site at Cinram Distribution, LLC (Currently Doing Business as Cinram Group Inc.), Lavergne, TN

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 July 25, 2012, applicable

to workers and former workers of Cinram Manufacturing, LLC, a subsidiary of Cinram International, Olyphant, Pennsylvania (TA–W–81,726), Cinram Distribution, LLC, a subsidiary of Cinram International, LaVergne, Tennessee (TA–W–81,726A), and two leased worker groups (TA–W–81,726B and TA–W–81,726C). The subject worker groups are engaged in activities related to the production, packaging, and distribution of optical media devices.

At the request of the State of Pennsylvania, the Department reviewed the certification. New information revealed that the subject firm is currently doing business as Cinram Group Inc.

The amended notice applicable to TA–W–81,726 is hereby issued as follows:

All workers of Cinram Manufacturing, LLC, (currently doing business as Cinram Group Inc.), a subsidiary of Cinram International, including on-site leased workers from OneSource Staffing Solutions Olyphant, Pennsylvania (TA–W–81,726), and Cinram Distribution, LLC, (currently doing business as Cinram Group Inc.), a subsidiary of Cinram International, including on-site leased workers from Ambassador Personnel, Select Remedy Staffing and Wood Personnel Services, Lavergne, Tennessee (TA–W–81,726A), who became totally or partially separated from employment on or after July 17, 2012, through July 25, 2014, and all workers in the group threatened with total or partial separation from employment on July 25, 2012 through July 25, 2014, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended,

AND

All leased workers from ERG Staffing Service and AA Temporary Services, Inc., working on-site at Cinram Manufacturing, LLC, (currently doing business as Cinram Group Inc.), Olyphant, Pennsylvania (TA–W–81,726B), and leased workers from AFEEA, All-Star, and Elwood, working on-site at Cinram Distribution, LLC, (currently doing business as Cinram Group Inc.), Lavergne, Tennessee, (TA–W–81,726C), who became totally or partially separated from employment on or after June 14, 2011, through July 25, 2014, and all workers in the group threatened with total or partial separation from employment on July 25, 20142 through July 25, 2014, 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 20th day of September, 2012.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–24559 Filed 10–4–12; 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 *September 17, 2012 through September 21, 2012.*

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
81,511	Pemco World Air Services, Inc., Was Aviation Services, APA Services, Arnaldo Chavarria, Job Air Group, etc.	Dothan, AL	April 16, 2011.
81,812	Beyondsoft Consulting Inc., G.E.S. Division, Working On-Site at Hewlett Packard.	Boise, ID	July 13, 2011.
81,830	Los Angeles Salad Company, R.E. Hana Enterprises, Personnel Plus.	City of Industry, CA	July 25, 2011.

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
81,716	Pratt & Whitney, United Technologies, Global Supply Chain Materials Specialists, Bernd Group.	Middletown, CT	June 12, 2011.
81,739	Hewlett-Packard Company, Design Delivery Organization, Manpower, Synova and Pinnacle Technical.	Corvallis, OR	June 20, 2011.
81,827	Verizon Business Networks Services, Inc., Senior Analyst, Service Program Delivery (SA–SPD).	Hilliard, OH	July 20, 2011.
81,827A	Verizon Business Networks Services, Inc., Senior Analyst, Service Program Delivery (SA–SPD).	Ashburn, VA	July 20, 2011.
81,827B	Verizon Business Networks Services, Inc., Senior Analyst, Service Program Delivery (SA–SPD).	Cary, NC	July 20, 2011.
81,840	Sykes Enterprises, Incorporated, Langhorne 800 Division, Working off Site and Reporting To Langhorne, PA.	Langhorne, PA	July 31, 2011.
81,851	Thermo Fisher Scientific, dba Fisher Hamilton	Two Rivers, WI	October 2, 2012.
81,851A	Peer Technical Group, LLC, Working On-Site at Thermo Fisher Scientific, dba Fisher Hamilton.	Two Rivers, WI	August 1, 2011.
81,851B	Per Mar Security Services, Working On-Site at Thermo Fisher Scientific, dba Fisher Hamilton.	Two Rivers, WI	August 1, 2011.
81,862	Brockway Mould, Inc., Ross International LTD	Brockport, PA	August 31, 2012.
81,953	Franklin Electric Company, Inc., Remedy Intelligent Staffing, Labor Ready and Drive Force, etc.	Oklahoma City, OK	September 5, 2011.
81,954	Medimmune, LLC, Astra Zeneca, ABM Janitorial Services, Aerotek, Cisco Systems, etc.	Mountain View, CA	September 5, 2011.
81,954A	Medimmune, LLC, Astra Zeneca, ABM Janitorial Services, Aerotek, Cintas Corp., etc.	Santa Clara, CA	September 5, 2011.

The following certifications have been issued. The requirements of Section 222(f) (firms identified by the International Trade Commission) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
81,928	Q.E.P. Co. Inc., Harris Wood, Staff Pro	Boca Raton, FL	December 7, 2010.

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 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
81,814	Abound Solar, Inc., Aerotek	Longmont, CO.	
81,814A	Abound Solar, Inc	Ft. Collins, CO.	
81,814B	Abound Solar, Inc	Loveland, CO.	
81,883	United Steelworkers Local 9477	Baltimore, MD.	
81,902	DanChem Technologies, Inc. (DTI), Plant 5	Danville, VA.	

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
81,916	Veolia ES Industrial Services, Inc	Shreveport, LA.	
81,917	Automotive Quality Associates	Shreveport, LA.	

I hereby certify that the aforementioned determinations were issued during the period of *September 17, 2012 through September 21, 2012.* 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: September 25, 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–24557 Filed 10–4–12; 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 October 15, 2012.

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 October 15, 2012.

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 25th day of September 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[15 TAA petitions instituted between 9/17/12 and 9/21/12]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
81971	Direct Energy, Back Office Operations (Workers)	Tulsa, OK	09/17/12	09/12/12
81972	IMS Health, Development Group (State/One-Stop)	Watertown, MA	09/17/12	09/14/12

APPENDIX—Continued

[15 TAA petitions instituted between 9/17/12 and 9/21/12]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
81973	Sun Life Financial (State/One-Stop)	Greenfield, MA	09/18/12	09/17/12
81974	Maryland Pig Iron (State/One-Stop)	Baltimore, MD	09/18/12	09/17/12
81975	Xerox Corporation (State/One-Stop)	Wilsonville, OR	09/18/12	09/11/12
81976	Custom Food (State/One-Stop)	Shreveport, LA	09/18/12	09/17/12
81977	Flavor House (Workers)	Dothan, AL	09/18/12	09/10/12
81978	Peabody Energy (Workers)	Evansville, IN	09/19/12	09/18/12
81979	Goodridge USA (Company)	Torrance, CA	09/19/12	09/18/12
81980	Bank of America (State/One-Stop)	Addison, TX	09/19/12	09/18/12
81981	Ingersoll Rand (Aire Systems) (Workers)	Fort Smith, AR	09/19/12	09/18/12
81982	Leistritz Advanced Turbine Components, Inc. (Workers)	Rural Hall, NC	09/19/12	08/23/12
81983	Curwood (Subsidiary of Bemis, Inc.) (State/One-Stop)	Minneapolis, MN	09/19/12	09/18/12
81984	Leviton Manufacturing Company Incorporated (Company)	El Paso, TX	09/20/12	09/19/12
81985	Constellation Home Builder Systems-Fast (State/One-Stop)	Redmond, WA	09/20/12	09/14/12

[FR Doc. 2012–24556 Filed 10–4–12; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL COUNCIL ON DISABILITY

Notice of Sunshine Act Meetings; Correction

SUMMARY: The National Council on Disability published a notice in the **Federal Register** of October 3, 2012, concerning a meeting of the Council. This document contains an amendment to that notice, regarding NCD's request that in-person participants to the meeting refrain from use of scented products in consideration of those with multiple chemical sensitivities.

CONTACT PERSON FOR MORE INFORMATION: Anne Sommers, NCD, 1331 F Street NW., Suite 850, Washington, DC 20004; 202–272–2004 (V), 202–272–2074 (TTY).

In the **Federal Register** of October 3, 2012, in FR Doc. 2012–24449, beginning on page 60476, in the third column, amend the **PLACE** caption to read in full:

PLACE: The meeting will occur in-person at K&L Gates law firm, 1601 K Street NW., at the corner of 16th and K Streets, Washington, DC 20006. Interested parties may join the meeting in person or may join the phone line in a listening-only capacity (with the exception of the public comment period) using the following call-in number: 1–888–438–5453; Passcode: 7040549. If asked, the conference call leader's name is Aaron Bishop.

Please note: To help reduce exposure to fragrances for those with multiple chemical sensitivities, NCD requests that all those attending the meeting in person please refrain from wearing scented personal care products such as perfumes, hairsprays, colognes, and deodorants.

Dated: October 3, 2011.

Aaron Bishop,

Executive Director.

[FR Doc. 2012–24795 Filed 10–3–12; 4:15 pm]

BILLING CODE 6820–MA–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Computing Communication Foundations: Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Site Visit, Proposal Panel Review for Expeditions in Computing Program (#1192).

Date/Time: October 15, 2012, 7:00 p.m.–9:00 p.m.; October 16, 2012, 8:00 a.m.–8:00 p.m.; October 17, 2012, 8:30 a.m.–3:00 p.m.

Place: University of Minnesota-Twin Cities, Minneapolis, MN.

Type of Meeting: Partial Closed.

Contact Person: Vasant G. Honavar, National Science Foundation, 4201 Wilson Boulevard, Room 1125, Arlington, VA 22230. Telephone: (703) 292–7129.

Purpose of Meeting: To assess the progress of the EIC Award: 1029711, "Collaborative Research: Mining Climate and Ecosystem Data", and to provide advise and recommendations concerning further NSF support for the Center.

Agenda

Monday, October 15, 2012

7:00 p.m. to 9:00 p.m. Closed—Site Team and NSF Staff meets to discuss Site Visit materials, review process and charge.

Tuesday, October 16, 2012

8:00 a.m. to 1:00 p.m. Open—Presentations by Awardee Institution, faculty staff and students, to Site Team and NSF Staff. Discussions and question and answer sessions.

1:00 p.m.–8:00 p.m. Closed—Draft report on education and research activities.

Wednesday, October 17, 2012

8:30 a.m.–noon Open—Response presentations by Awardee Institution faculty staff to Site Team and NSF Staff. Discussions and question and answer sessions.

Noon to 3:00 p.m. Closed—Complete written site visit report with preliminary recommendations.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 2, 2012.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2012–24649 Filed 10–4–12; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Computing Communication Foundations; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Site Visit, Proposal Panel Review for Expeditions in Computing Program (#1192).

Date/Time: October 31, 2012 7 p.m.–9 p.m.; November 1, 2012 8 a.m.–8 p.m.; November 2, 2012 8:30 a.m.–3 p.m.

Place: University of California-San Diego, La Jolla, CA.

Type of Meeting: Partial Closed.

Contact Person: Sankar Basu, National Science Foundation, 4201 Wilson Boulevard, Room 1115, Arlington, VA 22230. Telephone: (703) 292–8010.

Purpose of Meeting: To assess the progress of the EIC Award: 1029783, "Collaborative

Research: Underdesigned and Opportunistic Computing Machines", and to provide advise and recommendations concerning further NSF support for the Center.

Agenda

Wednesday, October 31, 2012

7 p.m. to 9 p.m.: Closed
Site Team and NSF Staff meets to discuss Site Visit materials, review process and charge.

Thursday, November 1, 2012

8 a.m. to 1 p.m.: Open
Presentations by Awardee Institution, faculty staff and students, to Site Team and NSF Staff. Discussions and question and answer sessions.
1 p.m.–8 p.m.: Closed
Draft report on education and research activities.

Friday, November 2, 2012

8:30 a.m.–noon: Open
Response presentations by Awardee Institution faculty staff to Site Team and NSF Staff. Discussions and question and answer sessions.
Noon to 3 p.m.: Closed
Complete written site visit report with preliminary recommendations.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 2, 2012.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2012–24650 Filed 10–4–12; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Education and Human Resources; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Education and Human Resources (#1119).

Date/Time: November 7, 2012: 11:00 a.m. to 5:00 p.m., November 8, 2012: 8:30 a.m. to 3:30 p.m.

Place: NSF Headquarters, Room 375, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: Amanda Edelman, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 292–8600 or email: *aedelman@nsf.gov.*

Purpose of Meeting: To provide advice with respect to the Foundation's science technology, engineering, and mathematics (STEM) education and human resources programming.

Agenda

November 7, 2012 (Wednesday Morning)

- Welcoming Remarks
- Opening Introductions/Discussion with AC Members
- National Challenges in STEM Education and Strategic Direction of EHR

Working Lunch

November 7, 2012 (Wednesday Afternoon)

- Collaborations Across NSF
- Committee of Visitors Results and Discussion

November 8, 2012 (Thursday Morning)

- Research and Development in EHR
- Evaluation and Monitoring Plan

Working Lunch

November 8, 2012 (Thursday Afternoon)

- Strategic Communication Discussion
- Dialogue with NSF Director and Deputy Director
- Next Steps and Future Meeting Topics

Adjournment

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2012–24648 Filed 10–4–12; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit issued under the Antarctic Conservation of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On July 27, 2012, the National Science Foundation published a notice in the **Federal Register** of a permit application received. A Waste Management Permit was issued on September 24, 2012 to:

Olaf Malver	Permit No. 2013 WM–001.

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 2012–24596 Filed 10–4–12; 8:45 am]

BILLING CODE 7555–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67947; File No. SR–NSCC–2012–06]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving Proposed Rule Change To Enhance the Default Pricing Methodology Used by NSCC's Automated Customer Account Transfer Service

September 28, 2012.

I. Introduction

On August 7, 2012, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") proposed rule change SR–NSCC–2012–06. The proposed rule change, which was filed pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] was published for comment in the **Federal Register** on August 22, 2012.[3] The Commission received no comment letters regarding the proposal. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description

The proposed rule change will amend Rule 50 of NSCC's Rules and Procedures to eliminate the use of a default pricing matrix to assign values to certain items transferred through NSCC's Automated Customer Account Transfer Service ("ACATS").

ACATS enables NSCC Members to effect automated transfers of customer accounts among themselves.[4] Pursuant to Rule 50, an NSCC Member to whom a customer's full account will be transferred ("Receiving Member") will initiate the transfer by submitting to NSCC a transfer initiation request, which contains the customer detail information that the NSCC Member in possession of the account ("Delivering Member") requires in order to transfer the account. Delivering Members that have neither rejected the account transfer request nor sought corrections to the request within the allotted time

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 67673 (August 15, 2012), 77 FR 50736 (August 22, 2012).

[4] ACATS complements Financial Industry Regulatory Authority ("FINRA") Rule 11870 regarding Customer Account Transfers, which requires FINRA members to use automated clearing agency customer account transfer services, and to effect customer account transfers within specified time frames.

must submit to NSCC certain detailed customer account asset data.

For items transferred through ACATS that are not eligible to be processed through NSCC's Continuous Net Settlement ("CNS") system[5] (and for CNS-eligible items that are designated to be delivered ex-CNS), NSCC will produce ACATS Receive and Deliver Instructions. These ACATS transfers then settle either outside of NSCC or through a separate service at NSCC.[6] In order to incentivize the timely completion of ACATS transfers, at the start of the day on ACATS settlement date, the Delivering Member's NSCC money settlement account will receive a debit, or an incentive charge ("Incentive Charge"), equal to the aggregate market value of the items the Delivering Member is transferring through ACATS; the Receiving Member's NSCC money settlement account receives a credit in the same amount.[7] Once delivery of an item is complete, the Incentive Charge associated with that item is effectively offset when the Receiving Member pays the Delivering Member for the transferred item. This Incentive Charge is intended to encourage the Delivering Member to make delivery of the item in a timely manner.[8]

Each item transferred through ACATS must be assigned a market value in order to calculate the Incentive Charge. CNS-eligible items being transferred through ACATS are assigned a market value through the CNS system. Non-CNS eligible items, however, are assigned a market value pursuant to NSCC Rule 50, which calls for a market value based on either (i) the price obtained from a pricing source, if available or, if a pricing source is not available, (ii) the greater of (a) the price in U.S. dollars assigned by the Delivering Member ("Submitter's Value"), which, in most cases, must be the current market value of the item,[9] or (b) the value ascribed to such item pursuant to a default pricing matrix, as established from time to time by NSCC. The current default pricing matrix assigns a value to an item based on its "asset category type," as classified by the Delivering Member in the detailed customer account asset data submitted to NSCC. For example, the current default pricing matrix assigns equities a default price of $1 per share, with a cap of $20,000, and assigns U.S. government securities and U.S. government agency securities a default price of the face amount. The default pricing matrix was developed in close coordination with industry participants and the National Association of Securities Dealers shortly after the initial development of ACATS.

It has been observed that the default pricing matrix may, in some cases, overvalue items being transferred through ACATS. When this occurs, on ACATS settlement date the Delivering Member will be debited an Incentive Charge based on a higher value than the actual value of the item being transferred. Delivering Members will not receive the offset for this Incentive Charge until they deliver the related ACATS item. Therefore, a Delivering Member that does not deliver the ACATS item on ACATS settlement date will be required to pay the Incentive Charge associated with that item. If the default pricing matrix has overvalued an ACATS Incentive Charge, a Delivering Member that has failed to deliver the item will be faced with an unexpected inflated settlement charge on ACATS settlement date.

In order to reduce the risk of overcharging a Delivering Member, NSCC is proposing a rule change that will require NSCC to assign the Submitter's Value to items when the system cannot otherwise find a price for the security, thereby eliminating the use of the ACATS default pricing matrix altogether. Under the proposed rule change, in the case of non-CNS eligible items transferred through ACATS, NSCC will assign a market value to those items as either (i) the price obtained from a pricing source, if available or, if a pricing source is not available, the assigned market value will be (ii) the price in U.S. dollars assigned by the Delivering Member (*i.e.*, the Submitter's Value), which, in most cases, must be the current market value of the security.[10]

According to NSCC, this proposed rule change will reduce the risk that a non-CNS eligible item transferred through ACATS is assigned an inflated value based on its asset category, as it will require that the market value of these items be obtained either from a pricing source or from the Delivering Member.

III. Discussion

Section 19(b)(2)(C) of the Act[11] directs the Commission to approve a self-regulatory organization's proposed rule change if it determines that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act[12] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of security transactions, and to assure the safeguarding of securities and funds that are in the custody or control of such clearing agency, or for which it is responsible.

The Commission concludes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to NSCC. The proposed rule change should ensure that NSCC members will no longer be surprised with inflated settlement charges in connection with ACATS transfers. By allowing NSCC members to gauge their liabilities more accurately, the proposed rule change will foster the prompt and accurate clearance and settlement of security transactions, and will assure the safeguarding of securities and funds in NSCC's custody or control, or for which NSCC is responsible.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act, in particular with the requirements of Section 17A of the Act[13] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (File No. SR–

[5] CNS is an ongoing accounting system that nets each day's Settling Trades with the prior day's Closing Positions, producing net short or long positions per security issue for each Member. NSCC is always contraside for all positions. The positions are then passed against the Member's Designated Depository positions and available securities are allocated by book entry. This allocation of securities is accomplished through an evening cycle followed by a day cycle. Positions that remain open after the evening cycle may be changed as a result of trades accepted for settlement that day. To allocate deliveries in both the night and day cycles, CNS uses an algorithm based on priority groups in descending order, age of position within a priority group, and random numbers within age groups.

[6] For example, non-CNS ACATS transfers may settle at (i) The Depository Trust Company ("DTC"), for DTC-eligible items; (ii) NSCC's automated ACATS-Fund/SERV interface, for eligible mutual fund assets; (iii) NSCC's ACATS–IPS interface, for eligible annuities; and (iv) the Options Clearing Corporation, where transfers in customer-options positions take place, for options.

[7] Incentive Charges are not calculated for the transfer of options or annuities.

[8] It also allows the Receiving Member to record the customer position on its books, regardless whether the item is actually delivered on settlement date. This process supports the requirements of FINRA Rule 11870.

[9] *See* Section (d)(5)(A) of current FINRA Rule 11870, stating that a customer statement delivered in connection with a transfer instruction, "must include a then-current market value for all assets so indicated. If a then-current market value for an asset cannot be determined (*e.g.*, a limited partnership interest), the asset must be valued at original cost."

[10] *See* note 9, *supra*.

[11] 15 U.S.C. 78s(b)(2)(C).

[12] 15.U.S.C. 78q–1(b)(3)(F).

[13] 15 U.S.C. 78q–1.

[14] 15 U.S.C. 78s(b)(2).

NSCC–2012–06) be, and hereby is, APPROVED.[15]

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[16]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–24540 Filed 10–4–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67957; File No. SR–ISE–2012–74]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend ISE Rule 711 To Provide for the Nullification of Trades by Mutual Agreement of the Parties Thereto

October 1, 2012.

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 September 19, 2012, the International Securities Exchange, LLC (the "Exchange" or the "ISE") 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend ISE Rule 711 to provide for the nullification of trades by mutual agreement of the parties thereto. The text of the proposed rule change is available on the Exchange's Web site *www.ise.com*, at the principal office of the Exchange, at the Commission's Web site *http://www.sec.gov*, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 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 purpose of this proposed rule change is to amend ISE Rule 711 to provide for the nullification of trades by mutual agreement of the parties thereto. Under Proposed ISE Rule 711(b), a trade would be nullified if all parties to the trade agree to the nullification.[3] After agreement has been reached between the parties to nullify a trade, one party would be required to notify the Exchange and the Exchange promptly will disseminate the nullification to the Options Price Reporting Authority ("OPRA"). Proposed ISE Rule 711(b) would provide the parties to a trade with the ability to nullify a trade under circumstances where, for example, an obvious or catastrophic error is not deemed to have occurred, but the parties to the trade nonetheless desire that the trade be nullified.

2. Statutory Basis

The Exchange believes that the proposed rule change, which would permit a trade to be nullified upon the mutual agreement of all parties to the trade, is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the "Exchange Act"),[4] in general, and furthers the objectives of Section 6(b)(5) of the Exchange Act,[5] in particular, because it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism for a free and open market and a national market system, and in general, to protect investors and the public interest. The proposed rule change makes clear the contractual rights of the parties to a trade to nullify the trade upon mutual agreement. The Exchange believes that the proposed rule change is consistent with a free and open market and the public interest because it gives effect to the contractual rights of the parties to a trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) 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)[6] of the Act and Rule 19b–4(f)(6)[7] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File

[15] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The changes proposed to ISE Rule 711 are based on NYSE MKT LLC (formerly known as NYSE Amex LLC) Rule 965NY, Commentary .02. The Exchange believes that, though not required, parties generally would need to agree to nullify a trade prior to that trade being settled.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing the proposed rule change.

Number SR–ISE–2012–74 on the subject line.

Paper Comments

• Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2012–74. 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–ISE–2012–74, and should be submitted on or before October 26,2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–24578 Filed 10–4–12; 8:45 am]

BILLING CODE 8011–01–P

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67956; File No. SR–ISE–2012–78]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Schedule of Fees

October 1, 2012.

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 September 25, 2012, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission the proposed rule change, as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The ISE is proposing to amend its Schedule of Fees to note that responses to Non-Customer Flash Orders exposed to members are not charged a fee nor provided a credit. The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.com*), at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Under the intermarket linkage rules, the ISE cannot execute orders at a price that is inferior to the national best bid or offer ("NBBO"), nor can the Exchange place an order on its book that would cause the ISE best bid or offer to lock or cross another exchange's quote.[3] How the Exchange handles orders in these circumstances depends on whether they are Public Customer Orders (*i.e.*, orders for the account of a person that is not a broker-dealer) [4] or Non-Customer Orders (*i.e.*, orders for the account of a broker-dealer).[5]

Currently, when ISE is not at the NBBO, Public Customer Order are exposed to all ISE members to give them an opportunity to match the NBBO [6] ("Flash Orders [7]") before a Primary Market Maker ("PMM") sends the order to another exchange for execution. The Exchange recently amended its rules to expose Non-Customer Orders in such circumstance before rejecting them, similar to the process used to expose Public Customer Orders before those orders are sent for execution pursuant to intermarket linkage rules.[8]

For Public Customer Flash Orders, the Exchange currently charges a regular execution fee for orders that are flashed in Non-Select Symbols and a taker fee for orders that are flashed in all other symbols.[9] The Exchange also currently provides a credit for responses that trade against a flashed order.[10]

For Non-Customer Flash Orders, the Exchange will also charge a regular execution fee or a taker fee, as applicable, for the order that is flashed to Exchange Members. However, for responses that trade against Non-Customer Flash Orders, the Exchange will not provide a credit nor charge an

[3] *See* ISE Rules 1901 and 1902.

[4] *See* ISE Rule 100(a)(39).

[5] *See* ISE Rule 100(a)(28).

[6] *See* Securities Exchange Act Release Nos. 57812 (May 12, 2008), 73 FR 28846 (May 19, 2008) (SR–ISE–2008–50); 58038 (June 26, 2008), 73 FR 38261 (June July 3, 2008) (SR–ISE–2008–50).

[7] The term Flash Order is currently defined in the Preface of the Exchange's Schedule of Fees as a Priority or Professional Customer order that is exposed at the National Best Bid or Offer by the Exchange to all members for execution, as provided under Supplementary Material .02 to ISE Rule 803.

[8] *See* Securities Exchange Act Release No. 67606 (August 7, 2012), 77 FR 48180 (August 13, 2012) (SR–ISE–2012–69). The Exchange anticipates implementing this functionality in October 2012.

[9] *See* ISE Schedule of Fees, Section I, Regular Order Fees and Rebates.

[10] *See* ISE Schedule of Fees, Section G, Credit for Responses to Flash Orders.

execution fee. The purpose of this proposed rule change is to adopt rule text on the Exchange's Schedule of Fees to note that responses to Non-Customer Flash Orders will not be charged a fee or provided a credit.

2. Statutory Basis

The Exchange believes that its proposal to amend its Schedule of Fees is consistent with Section 6(b) of the Securities and Exchange Act of 1934 (the "Exchange Act")[11] in general, and furthers the objectives of Section 6(b)(4) of the Act[12] in particular, in that it is an equitable allocation of reasonable dues, fees and other charges among Exchange members and other persons using its facilities. The Exchange believes that the proposed rule change which seeks to adopt clarifying text regarding the application of fees and credits for responses to certain flashed orders is both reasonable and equitable because members would benefit from clear guidance provided on the Exchange's fee schedule. Further, the Exchange does not believe it needs to provide an incentive to attract Non-Customer orders to the Exchange and therefore, has determined not to provide a credit for responses to Non-Customer Flash Orders. The Exchange provides a credit for responses to Customer Flash Orders as an incentive to attract Customer orders to the Exchange. The Exchange believes the proposed rule change is also reasonable because it makes clarifying changes to the Preface of the Schedule of Fees by amending the definition of Flash Orders to also include all orders, and to Section G of the Schedule of Fees thereby providing greater transparency to the Exchange's fees and rebates.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4).

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.[13] At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings 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–ISE–2012–78 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2012–78. 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 ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2012–78, and should be submitted on or before October 26, 2012.

[13] 15 U.S.C. 78s(b)(3)(A)(ii).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–24577 Filed 10–4–12; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67955; File No. SR–ISE–2012–76]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt Reduced Fees for Historical ISE Open/Close Trade Profile Intraday Market Data Offering

October 1, 2012.

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 September 20, 2012, the International Securities Exchange, LLC (the "Exchange" or the "ISE") 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 proposes to amend its Schedule of Fees to adopt reduced subscription fees for academics for the sale of historical ISE Open/Close Trade Profile Intraday market data offering. The text of the proposed rule change is available on the Exchange's Web site

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

www.ise.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The 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

ISE currently sells the ISE Open/Close Trade Profile Intraday, a market data offering comprised of the entire opening and closing trade data of ISE listed options of both customers and firms updated at 10-minute intervals throughout the trading day.[3] The ISE Open/Close Trade Profile Intraday offering is subdivided by origin code (i.e., customer or firm) and the customer data is then further subdivided by order size. The volume data is summarized by day and series (i.e., symbol, expiration date, strike price, call or put). The ISE Open/Close Trade Profile Intraday enables subscribers to create their own proprietary put/call calculations. This market data offering is currently available to both members and non-members on annual subscription basis. The current subscription rate for both members and non-members is $2,000 per month.

ISE also sells historical ISE Open/Close Trade Profile Intraday. The historical ISE Open/Close Trade Profile Intraday offering is a compilation of the ISE Open/Close Trade Profile Intraday files. ISE sells historical ISE Open/Close Trade Profile Intraday on an ad-hoc basis. An ad-hoc request can be for any number of months, quarters or years for which the data is available. Members and non-members are currently able to purchase this data by paying a one-time fee of $1,000 per month, $2,000 per quarter or $8,000 per year. For example, a subscriber that wants to purchase data for August 2012 will pay $1,000; a subscriber that wants to purchase data for July, August and September of 2012 will pay $2,000; a subscriber that wants to purchase data for all twelve months of 2011 will pay $8,000.

The Exchange now proposes to adopt reduced fees for subscriptions to historical ISE Open/Close Trade Profile Intraday by academic institutions.[4] Occasionally, academic institutions inquire with the Exchange about subscribing to the historical ISE Open/Close Trade Profile Intraday for research purposes but are not inclined to pay the full price. In order to encourage and promote academic studies of its market data, ISE proposes to charge a flat rate of $1,000 for an ad-hoc request of up to 12 months of data or $2,000 for the complete data set. Academic institutions may use this data for academic purposes only and not for actual securities trading. The proposed discount applies only to the market data fees and does not cover any access or telecommunication charges that may be incurred by an academic institution. Moreover, with the adoption of reduced fees for academic institutions, ISE is not waiving any of its contractual rights and all academic institutions that subscribe to this data will be required to execute the appropriate subscriber agreement.

Further, the Exchange will apply a credit towards the purchase of historical ISE Open/Close Trade Profile Intraday data by an academic institution or academic author if such academic institution or academic author has previously purchased historical ISE Open/Close Trade Profile End of Day data and if the academic institution and/or academic author provides ISE with a link to published research papers on the use of the ISE Open/Close data that can be posted on the Exchange's Web site. For example, a university that previously purchased a complete set of the ISE Open/Close Trade Profile End of Day data and paid the Exchange $1,000 for that data will pay an incremental $1,000 for a complete set of the ISE Open/Close Trade Profile Intraday data instead of paying $2,000 for the complete set.

2. Basis

The basis under the Securities Exchange Act of 1934 (the "Act") for this proposed rule change is the requirement under Section 6(b)(4) that an exchange have an equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[5] in general, and with Section 6(b)(4) of the Act,[6] in particular, 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 ISE operates or controls. The Exchange notes that the proposed fees are reasonable and equitable in that they are deeply discounted and apply equally to all academic institutions as long as the purpose for subscribing to the data is educational and not vocational. Further, the Exchange believes the proposed rule filing will promote academic research of market data which can be of benefit to all market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

ISE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change will further promote and encourage academic studies of the ISE Open/Close Trade data for the benefit of all market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[7] and Rule 19b–4(f)(2)[8] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of

[3] *See* Securities Exchange Act Release No. 61317 (January 8, 2010), 75 FR 2915 (January 19, 2010) (SR–ISE–2009–103).

[4] The Exchange currently has reduced subscription fees for academic institutions that want to purchase historical ISE Open/Close Trade Profile End of Day market data offering. Academic institutions are able to purchase a complete set of the data or on an ad-hoc basis for up to 12 months of data. *See* Securities Exchange Act Release No. 60859 (October 21, 2009), 74 FR 55610 (October 28, 2009) (SR–ISE–2009–64).

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 240.19b–4(f)(2).

the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–ISE–2012–76 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2012–76. 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 a.m. and 3 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–ISE–2012–76, and should be submitted on or before October 26, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–24576 Filed 10–4–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67951; File No. SR–Phlx–2012–114]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Offer the QView Service

October 1, 2012.

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 September 21, 2012, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the 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

PHLX proposes to modify its fee schedule concerning NASDAQ OMX PSX ("PSX") fees to offer the QView service. The Exchange is proposing to implement the rule change as soon as possible, but in no event greater than thirty calendar days from the filing date of this proposal. The text of the proposed rule change is available at *http://nasdaqomxphlx.cchwallstreet.com*, at PHLX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to adopt the new QView service. QView is a web-based, front-end application, which provides a subscribing member firm with increased transparency over its trading activity on the Exchange's equities market, NASDAQ OMX PSX ("PSX"), by allowing the member firm to track its Exchange order flow.[3] In particular, a QView subscriber is able to track all of its trading activity on the Exchange through detailed order and execution summaries. QView provides a subscribing member with statistics concerning the total number of executions, total volume, dollar value of executions, executions by symbol, add versus remove, buy versus sell, display versus non-display, number of open orders, use of routing strategies and liquidity code designation. QView also provides information concerning how the subscribing member firm ranks in PSX market activity as compared to other PSX participants. The data provided by QView is available to the subscribing member both in real-time and historically. Subscribing member firms are also able to export such data from QView to other systems.

A member firm must subscribe to TradeInfo PSX [4] to subscribe to QView. QView was developed to work in conjunction with TradeInfo PSX, so that a subscriber to QView is able to

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A subscribing member possessing multiple MPIDs must designate the MPIDs for which it would like to receive QView information. A subscribing member, however, may elect to monitor only the activity occurring through certain ports associated with a subscribed MPID. A member firm seeking to subscribe to QView that accesses the Exchange through a sponsored arrangement with another Exchange member must provide the Exchange with an executed sponsored access data agreement prior to subscribing to QView. The sponsored access data agreement makes clear that the subscribing member firm is permitted to designate the sponsoring firm's MPID for subscription to QView. A copy of this form may be found here: *http://www.nasdaqtrader.com/content/productsservices/trading/QView/QView_SponsoredAccessAgreement.pdf*.

[4] TradeInfo PSX is a web-based tool that, among other things, allows users access to all of the PSX order and execution information for their entire firm for both equities and options through a single interface. TradeInfo PSX is offered complimentary as part of the Workstation or separately for a fee of $95 per user, per month. *See* NASDAQ OMX PHLX LLC PRICING SCHEDULE. VIII. NASDAQ OMX PSX FEES.

seamlessly filter down to the specific order or execution information of the orders and executions provided in the QView dashboard interface. The dashboard also allows a QView subscriber to track his/her executions and open orders in real-time, as well as view its executions and open orders as an overall summary, with all totals displayed by quantity, share volume, or dollar value. As such, QView provides both an overall summary of a subscribing member firm's activity, as well as detailed order and execution information, thus providing the subscriber a comprehensive tool to track its trading activity.[5]

PHLX notes that an identical QView service is currently offered by its sister exchange, The NASDAQ Stock Market LLC for a fee of $600 per month, per member firm.[6] PHLX is proposing to offer QView at no cost at the present time, but may assess a fee in the future. If it determines to assess a fee, the Exchange will file a rule change proposal with the Commission.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)(5) of the Act,[7] which requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. The Exchange believes the proposed rule change is consistent with these requirements because the proposed service provides subscribing members with a useful analytical tool with which they may access information concerning their order and trade activity occurring on the Exchange. With this information, subscribing members may more closely monitor and analyze such activity, and make more informed investment decisions. Accordingly, the Exchange believes that the proposed service will further goals of the Act by providing subscribing members with greater transparency with respect to their order activity on the Exchange. As noted above, the proposed QView service is identical to the NASDAQ QView service currently offered to NASDAQ members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. To the contrary, the proposed rule change is pro-competitive in that it will allow the Exchange to disseminate a new service on a voluntary basis. QView is voluntary on the part of the Exchange, which is not required to offer such products and services, and voluntary on the part of prospective users that are not required to use it and may obtain the information from other sources.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (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)[8] of the Act and Rule 19b–4(f)(6) thereunder.[9]

A proposed rule change filed under 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[10] However, Rule 19b–4(f)(6)(iii)[11] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that it may offer QView at the earliest reasonable time possible. The Exchange notes that the services offered by PSX QView are identical to services offered by NASDAQ's QView. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow the Exchange to immediately offer its QView service so members may benefit immediately by tracking their order flow on the Exchange. For this reason, the Commission designates the proposed rule change to be operative upon the operative date of the Filing.[12]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2012–114 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.

All submissions should refer to File Number SR–Phlx–2012–114. 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

[5] For example, QView will inform a subscribing member of its executions in a particular day and provide a link to the details of those executions, which is provided by TradeInfo.

[6] *See* NASDAQ Rule 7058.

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] *Id.*

[12] For the 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).

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–2012–114 and should be submitted on or before October 26, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–24572 Filed 10–4–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67952; File No. SR–BX–2012–061]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Offer the QView Service

October 1, 2012.

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 September 21, 2012, NASDAQ OMX BX, Inc. ("BX" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the 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

BX proposes to adopt the QView service under Rule 7058. The Exchange is proposing to implement the rule change as soon as possible, but in no event greater than thirty calendar days from the filing date of this proposal. The text of the proposed rule change is available at *http://nasdaqomxbx.cchwallstreet.com,* at BX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to adopt the new QView service. QView is a web-based, front-end application, which provides a subscribing member firm with increased transparency over its trading activity on the Exchange by allowing the member firm to track its Exchange order flow.[3] In particular, a QView subscriber is able to track all of its trading activity on the Exchange through detailed order and execution summaries. QView provides a subscribing member with statistics concerning the total number of executions, total volume, dollar value of executions, executions by symbol, add versus remove, buy versus sell, display versus non-display, number of open orders, use of routing strategies and liquidity code designation. QView also provides information concerning how the subscribing member firm ranks in BX market activity as compared to other BX participants. The data provided by QView is available to the subscribing member both in real-time and historically. Subscribing member firms are also able to export such data from QView to other systems.

A member firm must subscribe to TradeInfo BX [4] to subscribe to QView. QView was developed to work in conjunction with TradeInfo BX, so that a subscriber to QView is able to seamlessly filter down to the specific order or execution information of the orders and executions provided in the QView dashboard interface. The dashboard also allows a QView subscriber to track his/her executions and open orders in real-time, as well as view its executions and open orders as an overall summary, with all totals displayed by quantity, share volume, or dollar value. As such, QView provides both an overall summary of a subscribing member firm's activity, as well as detailed order and execution information, thus providing the subscriber a comprehensive tool to track its trading activity.[5]

BX notes that an identical QView service is currently offered by its sister exchange, The NASDAQ Stock Market LLC for a fee of $600 per month, per member firm.[6] BX is proposing to offer QView at no cost at the present time, but may assess a fee in the future. If it determines to assess a fee, the Exchange will file a rule change proposal with the Commission.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)(5) of the Act,[7] which requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest. The Exchange believes the proposed rule

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A subscribing member possessing multiple MPIDs must designate the MPIDs for which it would like to receive QView information. A subscribing member, however, may elect to monitor only the activity occurring through certain ports associated with a subscribed MPID. A member firm seeking to subscribe to QView that accesses the Exchange through a sponsored arrangement with another Exchange member must provide the Exchange with an executed sponsored access data agreement prior to subscribing to QView. The sponsored access data agreement makes clear that the subscribing member firm is permitted to designate the sponsoring firm's MPID for subscription to QView. A copy of this form may be found here: *http://www.nasdaqtrader.com/content/productsservices/trading/QView/QView_SponsoredAccessAgreement.pdf.*

[4] TradeInfo BX is a web-based tool that, among other things, allows users access to all of the BX order and execution information for their entire firm for both equities and options through a single interface. TradeInfo BX is offered complimentary as part of the Workstation or separately for a fee of $95 per user per month. *See* Rule 7015.

[5] For example, QView will inform a subscribing member of its executions in a particular day and provide a link to the details of those executions, which is provided by TradeInfo.

[6] *See* NASDAQ Rule 7058.

[7] 15 U.S.C. 78f(b)(5).

change is consistent with these requirements because the proposed service provides subscribing members with a useful analytical tool with which they may access information concerning their order and trade activity occurring on the Exchange. With this information, subscribing members may more closely monitor and analyze such activity, and make more informed investment decisions. Accordingly, the Exchange believes that the proposed service will further goals of the Act by providing subscribing members with greater transparency with respect to their order activity on the Exchange. As noted above, the proposed QView service is identical to the NASDAQ QView service currently offered to NASDAQ members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. To the contrary, the proposed rule change is pro-competitive in that it will allow the Exchange to disseminate a new service on a voluntary basis. QView is voluntary on the part of the Exchange, which is not required to offer such products and services, and voluntary on the part of prospective users that are not required to use it and may obtain the information from other sources.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (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)[8] of the Act and Rule 19b–4(f)(6) thereunder.[9]

A proposed rule change filed under 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[10] However, Rule 19b–4(f)(6)(iii)[11] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that it may offer QView at the earliest reasonable time possible. The Exchange notes that the services offered by BX QView are identical to services offered by NASDAQ's QView. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow the Exchange to immediately offer its QView service so members may benefit immediately by tracking their order flow on the Exchange. For this reason, the Commission designates the proposed rule change to be operative upon the operative date of the Filing.[12]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BX–2012–061 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.

All submissions should refer to File Number SR–BX–2012–061. 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–BX–2012–061 and should be submitted on or before October 26, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–24573 Filed 10–4–12; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] *Id.*

[12] For the 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).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67954; File No. SR–ICC–2012–16]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change To Revise Rules Related to Clearing Certainty Requirements

October 1, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

September 25, 2012, ICE Clear Credit LLC ("ICC") filed with the Securities and Exchange Commission ("Commission") the proposed rule changes described in Items I and II below, which Items have been prepared primarily by ICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to approve the proposed rule change on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

ICC is in regular communication with representatives of its Clearing Participants, as that term is defined in the Rules of ICC (the "Rules") in relation to the operation of clearing processes and arrangements. The purpose of the proposed rule changes is to (i) implement new clearing certainty requirements consistent with Commodity Futures Trading Commission ("CFTC") Rules 39.12(b)(7) and 23.506, which become effective on October 1, 2012, and (ii) consolidate the rules in connection with the clearance of house and backloaded trades. These changes also seek to improve drafting and cross-references within the ICC Rules. All capitalized terms not defined herein are defined in the Rules.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received on the proposed rule changes. The text of these statements may be examined at the places specified in Item III below. ICC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

As noted above, the principal purpose of the proposed rule changes is to implement the CFTC's clearing certainty requirements and to conform such rules to the new CFTC Rules 39.12(b)(7)(ii) and (iii) and Rule 23.506. Specifically, the proposed rule changes affect Part 3 of the ICC Rules by addressing the timeframe under which trades must be accepted or rejected for clearing under new CFTC rules and consolidating the provisions governing the way new trades and backloaded trades are submitted to ICC. Finally, certain definitions found in Part 1 of the Rules are amended to account for changes in Part 3. Each of these changes is described in detail as follows.

In Part 1 of the ICC Rules, the definition of "Backloaded Trade" has been consolidated to cover trades that are intended to replace and backload an existing agreement on terms equivalent to a Contract either (i) between two Participants for their own accounts or (ii) to which a Non-Participant Party is party, where the relevant Participant is acting for such Non-Participant Party.

The original Rule 301(b), the statement relating to "Weekly Cycle Interdealer Trades" is deleted and consolidated with the new Rule 301(c), which covers Backloaded Trades. In addition, the original Rule 301(f) is deleted and consolidated into the new Rule 301(b). A corresponding consolidation is proposed for the original Rules 309(b) and Rule 309(c) in order to conform it to the changes made in Rule 301. ICC believes that these changes are improvements in operational services that are administrative in nature or codify existing practices.[3]

Under the proposed new Rule 309(d), ICC has incorporated new CFTC Rule 39.12(b)(7)(ii), which requires, among other things, that ICC accept or reject trades submitted for clearance that are executed competitively on or subject to the rules of a designated contract market or swap execution facility as soon after execution as would be technologically practicable if fully automated systems were used.

Under the proposed new Rule 309(e), ICC has incorporated the new CFTC Rule 39.12(b)(7)(iii), which requires, among other things, that ICC accept or reject trades submitted for clearance that are not executed competitively on or subject to the rules of a designated contract market or swap execution facility as soon after submission for clearing as would be technologically practicable if fully automated systems were used.

Finally, under the new proposed Rule 315, ICC has incorporated the standards of CFTC Rule 1.74(b) and required that Participants must accept or reject each Trade submitted by or for the Participant or its customers as quickly as would be technologically practicable if fully automated systems were used. Participants would also be required to submit such Trades to ICC following such acceptance as quickly as would be practicable if fully automated systems were used.

ICC believes that the proposed rule changes are consistent with the purposes and requirements of Section 17A of the Act and the rules and regulations thereunder applicable to it. ICC believes that implementing the CFTC's clearing certainty requirements will comply with the Act and the rules and regulations thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

ICC does not believe the proposed rule 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 rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

III. 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–ICC–2012–16 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–ICC–2012–16. 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

[3] The Commission has modified the text of the summaries prepared by ICC to reflect information communicated during a phone call with Michelle Weiler, Assistant General Counsel, on September 28, 2012.

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 ICC and on ICC's Web site at *https://www.theice.com/publicdocs/regulatory_filings/ICEClearCredit_091912a.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–ICC–2012–16 and should be submitted on or before October 26, 2012.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

Section 19(b) of the Act[4] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. The Commission finds that the proposed rule change is consistent with the requirements of the Act, in particular the requirements of Section 17A of the Act, and the rules and regulations thereunder applicable to ICC.[5] Specifically, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act, which requires, among other things, that the rules of a registered 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.[6]

In its filing, ICC requested that the Commission approve this proposed rule change on an accelerated basis for good cause shown. ICC cites as the reason for this request that the rule change is a straightforward operational change that is required in order to be in compliance with CFTC Rules 39.12(b)(7) on the October 1, 2012 effective date of this rule.

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[7] for approving the proposed rule change prior to the 30th day after the date of publication of notice in the **Federal Register** because, as a derivatives clearing organization registered with the CFTC, ICC must amend certain of its rules to comply with CFTC Regulation 39.12(b)(7), which becomes effective on October 1, 2012.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–ICC–2012–16) be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–24575 Filed 10–4–12; 8:45 am]

BILLING CODE 8011–01–P

[4] 15 U.S.C. 78s(b).

[5] 15 U.S.C. 78q–1. In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67953; File No. SR–CME–2012–38]

Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change To Comply With Revisions to CFTC Regulations Governing Derivatives Clearing Organizations

October 1, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 21, 2012, Chicago Mercantile Exchange Inc. ("CME") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I and II below, which Items have been prepared primarily by CME. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to approve the proposed rule change on an accelerated basis.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CME proposes to amend certain of its rules to comply with pending revisions to Commodity Futures Trading Commission ("CFTC") Regulations governing derivatives clearing organizations ("DCOs"). The text of the proposed rule changes is available at the CME's Web site at *http://www.cmegroup.com,* at the principal office of CME, and at the Commission's Public Reference Room.

II. Self-Regulatory Organizations Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CME included statements concerning the purpose 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 III below. CME has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

CME is registered as a derivatives clearing organization with the CFTC and operates a substantial business clearing futures and swaps contracts subject to the jurisdiction of the CFTC. CME proposes to amend certain of its rules to comply with pending changes to CFTC Regulations that require DCOs to make corresponding rule changes. The changes that are the subject of this filing are required by the CFTC to become effective on October 1, 2012.

CFTC Regulation 39.12(b)(7) (Time Frame for Clearing), which becomes effective on October 1, requires each DCO to have rules providing that the DCO: (1) "will accept or reject for clearing as quickly after execution as would be technologically practicable if fully automated systems were used, all contracts" listed for clearing and executed competitively on or subject to the rules of a designated contract market ("DCM") or a swap execution facility ("SEF"); and (2) "will accept or reject for clearing as quickly after submission to the [DCO] as would be technologically practicable if fully automated systems were used, all swaps" listed for clearing that are not executed on or subject to the rules of a DCM or a SEF or executed noncompetitively on or subject to the

rules of a DCM or a SEF. In order to comply with CFTC Regulation 39.12(b)(7), CME proposes to amend CME Rules 8F005, 8G005 and 8H005. CME will also make relevant changes to the corresponding CME Clearing Manuals of Operations to account for the proposed rule changes.

CME also made a separate filing, CME Submission 12–280, with its primary regulator, the CFTC, with respect to the proposed rule changes.

CME believes the proposed changes are consistent with the requirements of the Exchange Act. CME, a derivatives clearing organization, is required to implement the proposed changes to comply with recent changes to CFTC regulations. CME notes that the policies of the Commodity Exchange Act ("CEA") with respect to clearing are comparable to a number of the policies underlying the Exchange Act, such as promoting market transparency for derivatives markets, promoting the prompt and accurate clearance of transactions and protecting investors and the public interest. CME believes the mandatory CFTC changes are specifically designed to facilitate the prompt and efficient processing of all contracts, agreements, and transactions submitted for clearing and will therefore help protect investors and safeguard customer funds.

B. Self-Regulatory Organization's Statement on Burden on Competition

CME does not believe that the proposed rule change will have any impact, or impose any burden, on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

CME has not solicited, and does not intend to solicit, comments regarding this proposed rule change. CME has not received any unsolicited written comments from interested parties.

III. 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–CME–2012–38 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CME–2012–38. 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 CME and on CME's Web site at *http://www.cmegroup.com/market-regulation/rule-filings.html*.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CME–2012–38 and should be submitted on or before October 26, 2012.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

Section 19(b) of the Act [3] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. The Commission finds that the proposed rule change is consistent with the requirements of the Act, in particular the requirements of Section 17A of the Act, and the rules and regulations thereunder applicable to CME.[4] Specifically, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act, which requires, among other things, that the rules of a registered 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.[5]

In its filing, CME requested that the Commission approve this proposed rule change on an accelerated basis for good cause shown. CME cites as the reason for this request CME's operation as a DCO, which is subject to regulation by the CFTC under the CEA, and that the proposed rule changes are required to comply with new CFTC regulations that become effective on October 1, 2012.

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[6] for approving the proposed rule change prior to the 30th day after the date of publication of notice in the **Federal Register** because, as a registered DCO, CME must amend certain of its rules to comply with CFTC Regulation 39.12(b)(7), which becomes effective on October 1, 2012.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–CME–2012–38) be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–24574 Filed 10–4–12; 8:45 am]

BILLING CODE 8011–01–P

[3] 15 U.S.C. 78s(b).

[4] 15 U.S.C. 78q–1. In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 8053]

Culturally Significant Objects Imported for Exhibition Determinations: "China's Terracotta Warriors: The First Emperor's Legacy"

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March

27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition "China's Terracotta Warriors: The First Emperor's Legacy," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The Minneapolis Institute of Arts in Minneapolis, Minnesota from on or about October 28, 2012, until on or about January 20, 2013; at the Asian Art Museum in San Francisco, California from on or about February 22, 2013 until on or about May 27, 2013; and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Ona M. Hahs, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6473). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: September 27, 2012.

J. Adam Ereli,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs. Department of State.

[FR Doc. 2012–24708 Filed 10–4–12; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 8055]

The Review and Amendment of the Designation of Al-Qa'ida in the Arabian Peninsula, aka Al-Qa'ida of Jihad Organization in the Arabian Peninsula, aka Tanzim Qa'idat al-Jihad fi Jazirat al-Arab, aka Al-Qa'ida in Yemen, aka Al-Qa'ida in the South Arabian Peninsula as a Foreign Terrorist Organization Pursuant to Section 219 of the Immigration and Nationality Act

Based upon a review of the Administrative Record assembled in this matter pursuant to Section 219(a)(4)(C) of the Immigration and Nationality Act, as amended (8 U.S.C. 1189(a)(4)(C)) ("INA"), and in consultation with the Attorney General and the Secretary of the Treasury, the Secretary of State concludes that the circumstances that were the basis for the 2004 designation of the aforementioned organization as a foreign terrorist organization have not changed in such a manner as to warrant revocation of the designation and that the national security of the United States does not warrant a revocation of the designation, and that there is a sufficient factual basis to find that al-Qa'ida in the Arabian Peninsula, also known under the aliases listed above, uses or has used an additional alias, namely, Ansar al-Shari'a.

Therefore, the Secretary of State hereby determines that the designation of the aforementioned organization as a foreign terrorist organization, pursuant to Section 219 of the INA (8 U.S.C. 1189), shall be maintained, and in addition, effective upon the date of publication in the **Federal Register**, the Secretary of State hereby amends the 2010 designation of al-Qa'ida in the Arabian Peninsula as a foreign terrorist organization, pursuant to § 219(b) of the INA (8 U.S.C. 1189(b)), to include the following new alias and other possible transliterations thereof: Ansar al-Shari'a.

Dated: September 17, 2012.

Hillary Rodham Clinton,

Secretary of State.

[FR Doc. 2012–24710 Filed 10–4–12; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice 8054]

The Amendment of the Designation of Al-Qa'ida in the Arabian Peninsula, aka Al-Qa'ida of Jihad Organization in the Arabian Peninsula, aka Tanzim Qa'idat al-Jihad fi Jazirat al-Arab, aka Al-Qa'ida in Yemen, aka Al-Qa'ida in the South Arabian Peninsula, as a Specially Designated Global Terrorist Entity Pursuant to Executive Order 13224

Based upon a review of the Administrative Record assembled in this matter pursuant to Executive Order 13224 and in consultation with the Attorney General and the Secretary of the Treasury, the Secretary of State concludes that there is a sufficient factual basis to find that al-Qa'ida in the Arabian Peninsula, also known under the aliases listed above, uses or has used an additional alias, namely, Ansar al-Shari'a.

Therefore, the Secretary of State hereby amends the 2010 designation of al-Qa'ida in the Arabian Peninsula as a Specially Designated Global Terrorist entity, pursuant to Executive Order 13224, to include the following new alias and other possible transliterations thereof:

Ansar al-Shari'a.

Dated: September 17, 2012.

Hillary Rodham Clinton,

Secretary of State.

[FR Doc. 2012–24702 Filed 10–4–12; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice 8048]

Presidential Determination No. 2012–16; Correction

AGENCY: Department of State.

ACTION: Notice; Correction.

SUMMARY: The Department of State published a document in the **Federal Register** on September 24, 2012 (77 FR 58921) concerning Presidential Determination No. 2012–16. The final sentence in the published document is incorrect. This notice corrects this error.

FOR FURTHER INFORMATION CONTACT: Janet Freer; (202) 312–9607.

Correction

In a notice that published September 24, 2012 in the **Federal Register**, 77 FR 58921, the following is corrected: In the final sentence of Presidential Determination No.2012–16, change to:

"You are hereby authorized and directed to submit this determination to the Congress, and to publish it in the **Federal Register**."

Dated: September 28, 2012.

Janet Freer,

Acting Director, Office of Directives Management, U.S. Department of State.

[FR Doc. 2012–24704 Filed 10–4–12; 8:45 am]

BILLING CODE 4710–24–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Industry Trade Advisory Committee on Small and Minority Business (ITAC–11)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of a Partially Opened Meeting.

SUMMARY: The Industry Trade Advisory Committee on Small and Minority Business (ITAC–11) will hold a meeting on Monday, October 15, 2012, from 9:30 a.m. to 4:00 p.m. The meeting will be opened to the public from 9:30 a.m. to 12:30 p.m.

DATES: The meeting is scheduled for October 15, 2012 unless otherwise notified.

ADDRESS: The meeting will be held at the Ronald Reagan International Trade Center, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Laura Hellstern, DFO for ITAC–11 at (202) 482–3222, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: The Agenda topics to be discussed are:

—Top Challenges Facing SME Exporters
—Preview of National District Export Council (DEC) Forum October 16
—US&FCS User Fee Proposal
—Proposed ITA Reorganization

Isaac Faz,

Acting, Assistant U.S. Trade Representative, Intergovernmental Affairs and Public Engagement.

[FR Doc. 2012–24680 Filed 10–4–12; 8:45 am]

BILLING CODE 3290–F3–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance: Bolton Field Airport; Columbus, OH

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The Federal Aviation Administration (FAA) is considering a proposal to change a portion of the Bolton Field Airport from aeronautical use to non-aeronautical use and to authorize the sale of the airport property. The proposal consists of the sale of unimproved land owned by the Columbus Regional Airport Authority (CRAA) for use as an office/warehouse/distribution facility.

The CRAA has requested from FAA a "Release from Federal agreement obligated land covenants" to sell 60.282 acres of property acquired by the CRAA with Federal funding under Grant Number 8–39–0026–01.

The above mentioned land is not needed for aeronautical use, as shown on the Airport Layout Plan. There are no impacts to the airport by allowing the CRAA to dispose of the property. Approval does not constitute a commitment by the FAA to financially assist in the disposal of the airport property nor a determination of eligibility for grant-in-aid funding from the FAA. The disposition of proceeds from the disposal of the airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999.

In accordance with section 47107(h) of title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

DATES: Comments must be received on or before November 5, 2012.

ADDRESSES: Documents reflecting this FAA action may be reviewed at the Detroit Airports District Office, 11677 South Wayne Road, Suite 107, Romulus, Michigan 48174.

FOR FURTHER INFORMATION CONTACT: Mr. David J. Welhouse, Program Manager, Detroit Airports District Office, 11677 South Wayne Road, Suite 107, Romulus, Michigan 48174. Telephone Number (734) 229–2952/FAX Number (734) 229–2950.

SUPPLEMENTARY INFORMATION: Following is a legal description of the property located in the City of Columbus, Franklin County, Ohio, and described as follows:

Description of Property Being Released (60.282 Acres)

Situate in the State of Ohio, Franklin County, City of Columbus, lying in Virginia Military Survey Number 1462, being 4.473 acres out of that original 108.301 acre tract (Tract 26) and 55.809 acres out of that 82.98 acre tract (Tract 27) as conveyed to Columbus Regional Airport Authority by deed of record in Instrument Number 20071231221193 (all records herein are from the Recorder's Office, Franklin County, Ohio) and being further described as follows:

Begin, for reference, at Franklin County Engineer's Monument 5146 at the centerline intersection of Holt Road (70 feet in width) and Alkire Road (width varies);

Thence North 87°12′43″ West a distance of 1221.21 feet, long the centerline of Alkire Road to a PK nail found at the southeasterly corner of said 82.98 acre tract, and being the southwesterly corner of that 7.846 acre tract as conveyed to M & J Development and Storage Systems, LLC by deed of record in Instrument Number 200512090260149;

Thence North 02°02′58″ East, a distance of 737.67 feet along the line common to said 82.98 and 7.846 acre tracts passing a ¾ inch iron pipe found with cap stamped "STANTEC" at 50.00 feet to a ¾ inch iron pipe set at the True Point of Beginning;

Thence the following five (5) courses and distances across said 82.98 and 108.301 acre tracts;

North 87°57′02″ West, a distance of 159.01 feet to a ¾ inch iron pipe set;

North 57°37′01″ West, a distance of 1204.85 feet to a ¾ inch iron pipe set;

North 00°45′58″ East, a distance of 687.54 feet to a ¾ inch iron pipe set;

North 39°30′41″ West, a distance of 102.52 feet to a ¾ inch iron pipe set;

North 66°08′30″ West, a distance of 447.78 feet to a ¾ inch iron pipe set on the easterly line of that 13.6672 acre tract as conveyed to the City of Columbus by deed of record in Instrument Number 200712310221202;

Thence North 01°09′32″ East, a distance of 306.65 feet along the line common to said 108.301 and 13.6672 acre tracts to a ¾ inch iron pipe found with a yellow cap stamped "S5669" on a corner common to said 108.301 and 13.6672 acre tracts, and being on the southerly line of that 16.715 acre tract as conveyed to Robert Eickholt by deed of record in Instrument Number 200505230098299;

Thence South 88°50′02″ East, a distance of 474.90 feet along the line common to said 108.301 and 16.715 acre tracts to a ⅝ inch rebar found with cap stamped "Thomas Engr. & Surveying" on the line common to said 108.301 and 82.98 acre tracts;

Thence North 00°55′10″ East, a distance of 404.87 feet, continuing along the line common to said 82.98 and 16.715 acre tracts, passing a ⅝ rebar found at 96.85 feet, to a ¾ inch iron pipe set at the southwesterly corner Lot 18 of Georgesville Square Subdivision and Dedication of Holt Road of record in Plat Book 87, Pages 11–15, and that original 17.449 acre tract as conveyed to Glimcher Properties LP by deeds of record in Official Record 30163 F05 and Official Record 30328 D19;

Thence South 88°37″05″ East, a distance of 1236.05 feet, along the southerly line of said Lot 18 and original 17.449 acre tract to a 1 inch iron pipe found at the northeasterly corner of said 82.98 acre tract, and being the corner common to Lot 18 and Lot 17;

Thence South 02°02′58″ West, a distance of 2272.05 feet along the line common to said 82.98 acre tract, and that 1.400 acre tract as conveyed to Ashland Inc. by deed of record in Instrument Number 200211250301573, the Second Amendment to The Villas at Holt Run Condominium, Instrument Number 200807220112257, that original 10.799 acre tract conveyed to Scioto Land Development, LLC by deed of record in Instrument Number 200101120009093, that original 22.839 acre tract as conveyed to Scioto Land

Development, LLC by deed of record in Instrument Number 200104130077279, the First Amendment to The Villas at Holt Run Condominium, Instrument Number 200212030308781, the line common to Holt Run, a subdivision of record in Plat Book 98, Page 33 and said 7.846 acre tract, and Lot 17, passing a ¾ inch iron pipe found with a cap stamped "R.D. ZANDE" at 1568.50 feet, a ¾ inch iron pipe found at 2100.23 feet to the True Point of Beginning, containing 60.282 acres, more or less, of which 4.473 acres are out of Auditor's Parcel Number 570–154749 and 55.809 acres are out of Auditor's Parcel Number 570–154767, and being subject to all easements, restrictions and rights-of-way of record.

The bearings shown above are based on the grid bearing of North 87°12′43″ West for the centerline of Alkire Road between Franklin County Engineer's Monuments FCGS 5146 and FCGS 4448 as determined by a GPS network of field observations performed in September, 2007, State Plane Coordinate System, South Zone, NAD 83 (NSRS 2007).

Issued in Romulus, Michigan, on September 21, 2012.

John L. Mayfield, Jr.,

Manager, Detroit Airports District Office FAA, Great Lakes Region.

[FR Doc. 2012–24657 Filed 10–4–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA–2012–0048]

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: The Federal Transit Administration invites public comment about our intention to request the Office of Management and Budget's (OMB) approval to renew the following information collection:

Transit Research, Development, Demonstration and Deployment Projects The information collected is necessary to determine eligibility of applicants and ensure mass transportation service at a minimum cost. The **Federal Register** notice with a 60-day comment period soliciting comments was published on July 9, 2012 (Citation 77 FR 40409). No comments were received from that notice.

DATES: Comments must be submitted before November 5, 2012. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Sylvia L. Marion, Office of Administration, Office of Management Planning, (202) 366–6680.

SUPPLEMENTARY INFORMATION:

Title: Transit Research, Development, Demonstration and Deployment Projects.

Abstract: 49 U.S.C. 5312(a) authorizes the Secretary of Transportation to make grants or contracts for research, development, demonstration and deployment projects, and for evaluation of technology of national significance to public transportation, that the Secretary determines will improve mass transportation service or help transportation service meet the total urban transportation needs at a minimum cost. In carrying out the provisions of this section, the Secretary is also authorized to request and receive appropriate information from any source. The information collected is submitted as part of the application for grants and cooperative agreements and is used to determine eligibility of applicants. Collection of this information also provides documentation that the applicants and recipients are meeting program objectives and are complying with FTA Circular 6100.1D and other federal requirements.

Estimated Total Annual Burden: 11,240 hours.

ADDRESSES: All written comments must refer to the docket number that appears at the top of this document and be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725—17th Street NW., Washington, DC 20503, Attention: FTA Desk Officer.

Comments Are Invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued On: September 26, 2012.

Ann M. Linnertz,

Associate Administrator for Administration.

[FR Doc. 2012–24681 Filed 10–4–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Distracted Driving Grant Program

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: Pursuant to the Moving Ahead for Progress in the 21st Century Act (MAP–21), the Department of Transportation (DOT) announced the availability of funding authorized for distracted driving grants on August 24, 2012. In this notice, DOT is extending the application submission deadline announced in the notice of availability of funding to February 28, 2013.

DATES: This notice is effective October 5, 2012.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Associate Administrator, Regional Operations and Program Delivery, National Highway Traffic Safety Administration, Telephone number: 202–366–2121; Email: *Maggi.Gunnels@dot.gov.*

SUPPLEMENTARY INFORMATION: On July 6, 2012, the President signed into law the "Moving Ahead for Progress in the 21st Century Act" (MAP–21), Public Law 112–141, which created a new distracted driving grant program. DOT recently published a notice of funding availability (NOFA) for the distracted driving grant program, 77 FR 51610 (Aug. 24, 2012), which established an application deadline of October 9, 2012 for FY 2013 grants. Today's notice extends that application deadline to February 28, 2013. Applications for FY 2013 distracted driving grants must now be received by 11:59 p.m. Eastern Time on February 28, 2013.

Authority: Pub. L. 112–141, Section 31105; 23 U.S.C. 405(e) (as set forth in MAP–21); delegation of authority at 49 CFR §§ 1.94 and 1.95.

Issued on: October 1, 2012.

Ronald L. Medford,

Deputy Administrator, National Highway Traffic Safety Administration.

[FR Doc. 2012–24629 Filed 10–4–12; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35609]

North Louisiana & Arkansas Railroad, Inc.—Acquisition and Operation Exemption—Line of Lake Providence Port Commission

North Louisiana & Arkansas Railroad, Inc. (NLA), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to lease from Lake Providence Port Commission (LPPC), a political subdivision of the State of Louisiana,[1] and to operate approximately 16.2 miles of rail line between milepost 454.8, at or near the Louisiana-Arkansas border, and milepost 471.0, at or near East Carroll Parish, La.

As part of the transaction, NLA is also seeking to acquire by assignment from LPPC approximately 1.25 miles of incidental overhead trackage rights between milepost 471.00, at or near a certain highway barn near Lake Providence, La., and milepost 472.25 in East Carroll Parish. The trackage rights will allow NLA to operate over a line of the Delta Southern Railroad, Inc. (Delta Southern), in order to access LPPC's private tracks serving the LPPC port.[2]

NLA states that, at the present time, the line is impassable but that operations will commence once the lease is authorized by the Board and rehabilitation of the line is completed. NLA also states that it will interchange traffic with Union Pacific Railroad Company, Arkansas Midland Railroad Company, and Delta Southern.

According to NLA, the lease agreement will have an initial term of 10 years, beginning on the effective date of the Board's decision approving the proposed transaction. NLA states that the lease does not involve any provision or agreement that would limit future interchange with a third-party connecting carrier. NLA has included a copy of the lease agreement as part of its filing.

The earliest the transaction can be consummated is October 20, 2012, the effective date of the exemption (30 days after the exemption was filed).

NLA certifies that its projected annual revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier. NLA further certifies that its projected annual revenues as a result of this transaction will not exceed $5 million.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed no later than October 12, 2012 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35609, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Richard H. Streeter, 5255 Partridge Lane NW., Washington, DC 20016.

Board decisions and notices are available on our Web site at "*www.stb.dot.gov*."

Decided: October 2, 2012.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2012–24636 Filed 10–4–12; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35677]

Iowa Traction Railway Company—Change in Operators Exemption—Rail Line of Backtrack, Inc.

Iowa Traction Railway Company (Iowa Railway) [1] has filed a verified notice of exemption under 49 CFR 1150.31 to change operators from Iowa Traction Railroad Company (Iowa Railroad) to Iowa Railway over a 3-mile rail line between milepost 152.5 and milepost 155.5 at Mason City, Iowa (the Line), owned by Backtrack, Inc. (Backtrack).[2] The change in operators for the Line is being accomplished through Iowa Railroad's assignment of its authority to operate the Line to Iowa Railway, with the consent of Backtrack. Iowa Railway states that the change of operators of the Line does not involve a provision or agreement that may limit future interchange between Iowa Railway and a third-party connecting rail carrier. This change in operators is exempt under 49 CFR 1150.31(a)(3).[3]

The transaction may be consummated on or after October 19, 2012 (30 days after the notice of exemption was filed).

Iowa Railway certifies that its projected annual revenues as a result of this transaction will not exceed $5 million and will not result in Iowa Railway's becoming a Class I or Class II rail carrier.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than October 12, 2012 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35677, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Thomas F. McFarland, 208 South LaSalle Street, Suite 1890, Chicago, IL 60604.

Board decisions and notices are available on our Web site at *www.stb.dot.gov*.

Decided: October 2, 2012.

---

[1] LPPC states that it does not operate the line but has a residual common carrier obligation for the segment of the line between mileposts 463.0 and 471.0, which it acquired through the Board's offer of financial assistance process. *See Delta S. R.R.—Aban. Exemption—In E. Carroll Parish, La.*, AB 384 (Sub-No. 2X) (STB served June 7, 2011). LPPC acquired the remainder of the line after it had been abandoned.

[2] NLA concurrently filed a separate verified notice of exemption to acquire the trackage rights in *North Louisiana & Arkansas Railroad, Inc.—Acquisition of Trackage Rights Exemption*, Docket No. FD 35610. Because the trackage rights sought there are incidental to the lease of the line in Docket No. FD 35609, the Board is issuing a single notice of exemption in Docket No. FD 35609 covering the entire transaction.

[1] As of the September 19, 2012, the filing date of this notice of exemption, Iowa Railway was a noncarrier. Iowa Railway was authorized to acquire from Iowa Traction Railroad Company (Iowa Railroad) and to operate a 10.4-mile line of railroad in Cerro Gordo County, Iowa. *Iowa Traction Ry.—Acquis. and Operation Exemption—Rail Line of Iowa Traction R.R.*, FD 35670 (STB served Sept. 14, 2012). As of September 30, 2012, the effective date of the exemption, Iowa Railway states that it became a Class III rail carrier. In *Progressive Rail Incorporated—Continuance in Control Exemption—Iowa Traction Railway Company*, FD 35671 (STB served Sept. 14, 2012), Progressive Rail Incorporated was authorized to continue in control of Iowa Railway upon Iowa Railway's becoming a Class III rail carrier. This exemption also became effective on September 30, 2012.

[2] Iowa Railroad was authorized to lease and operate the 3-mile rail line from the owner, Hermitage Homes, Inc. (Hermitage), in *Iowa Traction Railroad Company—Operation Exemption—Hermitage Homes, Inc.*, FD 31353, (ICC served Nov. 23, 1988). Backtrack is the corporate successor of Hermitage.

[3] To qualify for a change of operators exemption, an applicant must give notice to shippers on the line. *See* 49 CFR 1150.32(b). In a letter filed on September 24, 2012, Iowa Railway certified to the Board that, at present, there are no shippers on the Line, therefore, no service of this notice is required on shippers.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2012–24634 Filed 10–4–12; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

ACTION: Notice; correction.

SUMMARY: The Department of the Treasury published a document in the **Federal Register** on September 28, 2012, inviting comments on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). This document contained incorrect references.

Correction

In the **Federal Register** of September 28, 2012, in FR Doc. 2012–23912, make the following corrections:

- Page 59706, in the third column, under OMB Number: 1545–1984; *Type of Review:*, replace "Extension without change" with "Revision".
- Page 59706, in the third column, under *Estimated Total Burden Hours,* of OMB Number 1545–1984, replace "6,450,000" with "7,398,000".

Dated: October 1, 2012.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2012–24534 Filed 10–4–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities; Proposed Information Collection; Comment Request; Leasing

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, 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 a continuing information collection, as required by the Paperwork Reduction Act of 1995.

Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information and to allow 60 days for public comment in response to the notice.

In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning its information collection titled, "Leasing."

DATES: Comments must be received by December 4, 2012.

ADDRESSES: Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 2–3, Attention: 1557–0206, 250 E Street SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874–5274, or by electronic mail to *regs.comments@occ.treas.gov*. You can inspect and photocopy the comments at the OCC, 250 E Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874–4700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, you should send a copy of your comments to OCC Desk Officer, 1557–0206, by mail to U.S. Office of Management and Budget, 725 17th Street NW., #10235, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: You can request additional information or a copy of the information collection from Mary H. Gottlieb or Johnny Vilela, OCC Clearance Officers, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, the OCC invites comments on these topics:

(a) Whether the information collections are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

(b) The accuracy of the agencies' estimates of the burden of the information collections, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of information collections 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.

Comments submitted in response to this notice will be shared among the agencies. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology as well as other relevant aspects of the information collection request.

Leasing—12 CFR 23.4(c) and 12 CFR 23.5 (OMB Control Number 1557–0206)—Extension

The OCC is proposing to extend OMB approval of the following information collection:

Title: Leasing (12 CFR part 23).

OMB Number: 1557–0206.

Description: This submission covers an existing regulation and involves no change to the regulation or to the information collection requirements. The OCC requests only that OMB extend the expiration date.

Information Collection Requirements Found in 12 CFR Part 23

12 CFR 23.4(c)

Under 12 CFR 23.4(c), national banks must liquidate or re-lease personal property that is no longer subject to

lease (off-lease property) within five years from the date of the lease expiration. If a national bank wishes to extend the five-year holding period for up to an additional five years, it must obtain OCC approval. Permitting a national bank to extend the holding period may result in cost savings. It also provides flexibility for a national bank that experiences unusual or unforeseen conditions which would make it imprudent to dispose of the off-lease property prior to the expiration of the five year holding period. Section 23.4(c) requires a national bank seeking an extension to provide a clearly convincing demonstration as to why any additional holding period is necessary. In addition, a national bank must value off-lease property at the lower of current fair market value or book value promptly after the property comes off-lease. These requirements enable the OCC to ensure that a national bank is not holding the property for speculative reasons and that the value of the property is recorded in accordance with generally accepted accounting principles (GAAP).

Section 23.5

Under 12 CFR 23.5, leases are subject to the lending limits prescribed by 12 U.S.C. 84, as implemented by 12 CFR part 32, or, if the lessee is an affiliate of the national bank, to the restrictions on transactions with affiliates prescribed by 12 U.S.C. 371c and 371c–1. See 12 CFR 23.6. Twelve U.S.C. 24 contains two separate provisions authorizing a national bank to acquire personal property for purposes of lease financing. Twelve U.S.C. 24(Seventh) authorizes leases of personal property (Section 24(Seventh) (Leases) if the lease serves as the functional equivalent of a loan. See 12 CFR 23.20. A national bank also may acquire personal property for purposes of lease financing under the authority of 12 U.S.C. 24(Tenth) (CEBA Leases). Section 23.5 requires that if a national bank enters into both types of leases, its records must distinguish between the two types of leases. This information is required to establish that the national bank is complying with the limitations and requirements applicable to the two types of leases.

National banks use the information to ensure their compliance with applicable Federal banking law and regulations and accounting principles. The OCC uses the information in conducting examinations and as an auditing tool to verify compliance with laws and regulations. In addition, the OCC uses national bank requests for permission to extend the holding period for off-lease property to ensure national bank compliance with relevant laws and regulations and to ensure bank safety and soundness.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals; Businesses or other for-profit.

Estimated Number of Respondents: 370.

Estimated Total Annual Responses: 370.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 685.

Dated: September 28, 2012.

Michele Meyer,

Assistant Director, Legislative and Regulatory Activities Division.

[FR Doc. 2012–24593 Filed 10–4–12; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations, Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") is publishing the names of five individuals whose property and interests in property have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act ("Kingpin Act") (21 U.S.C. 1901–1908, 8 U.S.C. 1182).

DATES: The designation by the Director of OFAC of the five individuals identified in this notice pursuant to section 805(b) of the Kingpin Act is effective on September 25, 2012.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, Office of Foreign Assets Control, U.S. 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 on OFAC's Web site at *http://www.treasury.gov/ofac* or via facsimile through a 24-hour fax-on-demand service at (202) 622–0077.

Background

The Kingpin Act became law on December 3, 1999. The Kingpin Act establishes a program targeting the activities of significant foreign narcotics traffickers and their organizations on a worldwide basis. It provides a statutory framework for the imposition of 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 the benefits of trade and transactions involving U.S. companies and individuals.

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, in consultation 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 may designate and block the property and interests in property, subject to U.S. jurisdiction, of persons who are 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; or (3) playing a significant role in international narcotics trafficking.

On September 25, 2012, the Director of OFAC designated the following five individuals whose property and interests in property are blocked pursuant to section 805(b) of the Kingpin Act.

Individuals

1. DIAS PANIAGUA, Rigoberto, Calle Yacatas No. 366, Planta Alta, Colonia Narvarte, Delegacion Benito Juarez, Distrito Federal Codigo Postal 03020, Mexico; Calle Sor Juana Ines de la Cruz No. 144, Departamento 124, Colonia Miguel Hidalgo Codigo Postal 14410, Mexico; DOB 05 Sep 1966; POB Acambaro, Guanajuato, Mexico; R.F.C. DIPR–690905 J31 (Mexico); alt. R.F.C. DIPR–660905 J31 (Mexico); C.U.R.P. DIPR660905HGTSNG05 (Mexico) (individual) [SDNTK].

2. FELIX FELIX, Victor Manuel (a.k.a. CASTRO RODRIGUEZ, Raul), Callejon Hortensias No. 320, Colonia Ciudad Bugambilias, Zapopan, Jalisco, Mexico; Calle Madero No. 39 Poniente, Lote 51, Colonia Centro, Culiacan, Sinaloa Codigo Postal 80000, Mexico; Privada San Geronimo No. 1801, Fraccionamiento San Jeronimo, Mexicali, Baja California Codigo Postal

21297, Mexico; Calle Victor Hugo No. 177, Interior 12, Colonia Portales, Delegacion Benito Juarez, Distrito Federal Codigo Postal 03300, Mexico; Circuito de las Flores Norte 2252, Fraccionamiento Ciudad Bugambilias, Zapopan, Jalisco, Mexico; Presa la Boquilla 1033, Colonia Las Quintas, Culiacan, Sinaloa, Mexico; Boulevard Francisco I. Madero 39 Poniente Despacho 501, Colonia Centro, Culiacan, Sinaloa, Mexico; Sevilla 1526 302 A, Fraccionamiento el Cid, Mazatlan, Sinaloa CP 82110, Mexico; Privada de San Jeronimo, San Jeronimo, Algodones, Baja California CP 21298, Mexico; Privada Puerta de Roble Numero 17–E, Fraccionamiento Puerta de Roble, Zapopan, Jalisco, Mexico; DOB 10 Nov 1957; alt. DOB 20 Jan 1958; POB Culiacan, Sinaloa, Mexico; alt. POB Baja, California, Mexico; R.F.C. FEFV571110–G75 (Mexico); Credencial electoral FLFLVC57111025H101 (Mexico); C.U.R.P. FEFV571110HSLLLC08 (Mexico) (individual) [SDNTK].

3. GONZALEZ CARDENAS, Jorge Guillermo, Calle Moras No. 543–B, Colonia Del Valle, Delegacion Benito Juarez, Distrito Federal Codigo Postal 03100, Mexico; Avenida Coyoacan No. 43, Colonia Del Valle, Delegacion Benito Juarez, Distrito Federal Codigo Postal 03100, Mexico; Castillo de Kent 38, Manzana 26 Lote 37, Condado de Sayavedra, Atizapan de Zaragoza, Estado de Mexico CP 52930, Mexico; DOB 24 Oct 1962; POB Culiacan, Sinaloa, Mexico; Passport 07380070619 (Mexico); R.F.C. GOCJ6210241Q0 (Mexico); C.U.R.P. GOCJ621024HSLNRR06 (Mexico) (individual) [SDNTK].

4. VAZQUEZ VILLAVICENCIO, Gabriela, Edificio G–11 Interior No. 24, Unidad Habitacional, Lomas de Plateros, Delegacion Alvaro Obregon, Distrito Federal Codigo Postal 01480, Mexico; Calle Campos Eliseos No. 403 Interior 202, Colonia Polanco, Delegacion Miguel Hidalgo, Distrito Federal Codigo Postal 11550, Mexico; Calle Moliere No. 66, Colonia Palmas Polanco, Delegacion Miguel Hidalgo, Distrito Federal Codigo Postal 11560, Mexico; Calle Ferrocarril de Cintura No. 300, Colonia Carranza Emilio, Delegacion Venustiano Carranza, Distrito Federal Codigo Postal 15230, Mexico; Calle Moliere No. 227, Colonia Polanco, Delegacion Miguel Hidalgo, Distrito Federal Codigo Postal 11560, Mexico; Francisco P. Miranda 3, Colonia Lomas de Plateros, Ciudad de Mexico CP 01480, Mexico; DOB 28 Feb 1965; POB Distrito Federal, Mexico; C.U.R.P. VAVG650228MDFZLB05 (Mexico) (individual) [SDNTK].

5. VILLA DIAZ, Oscar Dominguez (a.k.a. VILLA DIAZ, Oscar Domingo), Calle Acapulco No. 35 Interior 804, Colonia Roma, Delegacion Cuauhtemoc, Distrito Federal Codigo Postal 06700, Mexico; DOB 20 Sep 1945; POB Guadalajara, Jalisco, Mexico; Passport 06340040209 (Mexico); R.F.C. VIDO450920SK6 (Mexico) (individual) [SDNTK].

Dated: September 25, 2012.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2012–24624 Filed 10–4–12; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Toll-Free Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Toll-Free Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, November 6, 2012.

FOR FURTHER INFORMATION CONTACT: Marianne Dominguez at 1–888–912–1227 or 954–423–7978.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Toll-Free Project Committee will be held Tuesday, November 6, 2012, at 11 a.m. Eastern Time via telephone conference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Marianne Dominguez. For more information please contact Ms. Dominguez at 1–888–912–1227 or 954–423–7978, or write TAP Office, 1000 South Pine Island Road, Suite 340, Plantation, FL 33324, or contact us at the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: October 1, 2012.

Shawn Collins,

Director, Taxpayer Advocacy Panel.

[FR Doc. 2012–24664 Filed 10–4–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Small Business/Self-Employed Decreasing Non-Filers Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Small Business/Self-Employed Decreasing Non-Filers Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, November 20, 2012.

FOR FURTHER INFORMATION CONTACT: Patricia Robb at 1–888–912–1227 or 414–231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Small Business/Self-Employed Decreasing Non-Filers Project Committee will be held Tuesday, November 20, 2012, at 1 p.m. Eastern Time via telephone conference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Ms. Patricia Robb. For more information please contact Ms. Robb at 1–888–912–1227 or 414–231–2360, or write TAP Office, Stop 1006MIL, 211 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or post comments to the web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: October 1, 2012.

Shawn Collins,

Director, Taxpayer Advocacy Panel.

[FR Doc. 2012–24666 Filed 10–4–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Return Processing Delays Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Return Processing Delays Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, November 6, 2012.

FOR FURTHER INFORMATION CONTACT: Nina Pang at 1–888–912–1227 or 206–220–6581.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Return Processing Delays Project Committee will be held Tuesday, November 6, 2012, at 9:30 a.m. Pacific Time via telephone conference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notifications of intent to participate must be made with Ms. Janice Spinks. For more information please contact Ms. Spinks at 1–888–912–1227 or 206–220–6098, or write TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174 or post comments to the web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: October 1, 2012.

Shawn Collins,

Director, Taxpayer Advocacy Panel.

[FR Doc. 2012–24665 Filed 10–4–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Refund Processing Communications Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Refund Processing Communications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, November 1, 2012.

FOR FURTHER INFORMATION CONTACT: Ellen Smiley at 1–888–912–1227 or 414–231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Refund Processing Communications Project Committee will be held Thursday, November 1, 2012 at 2 p.m. Eastern Time via telephone conference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Ms. Ellen Smiley. For more information please contact Ms. Smiley at 1–888–912–1227 or 414–231–2360, or write TAP Office Stop 1006MIL, 211 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: October 1, 2012.

Shawn Collins,

Director, Taxpayer Advocacy Panel.

[FR Doc. 2012–24661 Filed 10–4–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, November 14, 2012.

FOR FURTHER INFORMATION CONTACT: Marisa Knispel at 1–888–912–1227 or 718–488–3557.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Project Committee will be held Wednesday, November 14, 2012, at 2:00 p.m. Eastern Time via telephone conference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Ms. Knispel. For more information please contact Ms. Knispel at 1–888–912–1227 or 718–488–3557, or write TAP Office, 10 MetroTech Center, 625 Fulton Street, Brooklyn, NY 11201, or post comments to the web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: October 1, 2012.

Shawn Collins,

Director, Taxpayer Advocacy Panel.

[FR Doc. 2012–24654 Filed 10–4–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Face-to-Face Service Methods Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Face-to-Face Service Methods Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, November 13, 2012.

FOR FURTHER INFORMATION CONTACT: Donna Powers at 1–888–912–1227 or 954–423–7977.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Face-to-Face Service Methods Project Committee will be held Tuesday, November 13, 2012, at 2:00 p.m. Eastern Time via telephone conference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Donna Powers. For more information

please contact Ms. Powers at 1–888–912–1227 or 954–423–7977, or write TAP Office, 1000 South Pine Island Road, Suite 340, Plantation, FL 33324, or contact us at the Web site: *http://www.improveirs.org.*

The agenda will include various IRS Issues.

Dated: October 1, 2012.

Shawn Collins,

Director, Taxpayer Advocacy Panel.

[FR Doc. 2012–24656 Filed 10–4–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of Taxpayer Advocacy Panel Taxpayer Burden Reduction Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Taxpayer Burden Reduction Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, November 21, 2012.

FOR FURTHER INFORMATION CONTACT: Audrey Y. Jenkins at 1–888–912–1227 or 718–488–2085.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Taxpayer Burden Reduction Project Committee will be held Wednesday, November 21, 2012, at 2:30 p.m. Eastern Time via telephone conference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Ms. Jenkins. For more information please contact Ms. Jenkins at 1–888–912–1227 or 718–488–2085, or write TAP Office, 10 MetroTech Center, 625 Fulton Street, Brooklyn, NY 11201, or post comments to the web site: *http://www.improveirs.org.*

The agenda will include various IRS issues.

Dated: October 1, 2012.

Shawn Collins,

Director, Taxpayer Advocacy Panel.

[FR Doc. 2012–24659 Filed 10–4–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Joint Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Joint Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, November 28, 2012.

FOR FURTHER INFORMATION CONTACT: Susan Gilbert at 1–888–912–1227 or (515) 564–6638.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Joint Committee will be held Wednesday, November 28, 2012, 2:00 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Notification of intent to participate must be made with Susan Gilbert. For more information please contact Ms. Gilbert at 1–888–912–1227 or (515) 564–6638 or write: TAP Office, 210 Walnut Street, Stop 5115, Des Moines, IA 50309 or contact us at the web site: *http://www.improveirs.org.*

The agenda will include various IRS topics.

Dated: October 1, 2012.

Shawn Collins,

Director, Taxpayer Advocacy Panel.

[FR Doc. 2012–24660 Filed 10–4–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Bankruptcy Compliance Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Bankruptcy Compliance Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, November 13, 2012.

FOR FURTHER INFORMATION CONTACT: Timothy Shepard at 1–888–912–1227 or 206–220–6095.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Bankruptcy Compliance Project Committee will be held Tuesday, November 13, 2012, at 9 a.m. Pacific Time via telephone conference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Timothy Shepard. For more information please contact Mr. Shepard at 1–888–912–1227 or 206–220–6095, or write TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174, or contact us at the Web site: *http://www.improveirs.org.*

The agenda will include various IRS Issues.

Dated: October 1, 2012.

Shawn Collins,

Director, Taxpayer Advocacy Panel.

[FR Doc. 2012–24655 Filed 10–4–12; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

Vol. 77 Friday,
No. 194 October 5, 2012

Part II

Department of Agriculture

Animal and Plant Health Inspection Service

7 CFR Part 331

9 CFR Part 121

Agricultural Bioterrorism Protection Act of 2002; Biennial Review and Republication of the Select Agent and Toxin List; Amendments to the Select Agent and Toxin Regulations; Final Rule

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 331

9 CFR Part 121

[Docket No. APHIS–2009–0070]

RIN 0579–AD09

Agricultural Bioterrorism Protection Act of 2002; Biennial Review and Republication of the Select Agent and Toxin List; Amendments to the Select Agent and Toxin Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: In accordance with the Agricultural Bioterrorism Protection Act of 2002, we are amending and republishing the list of select agents and toxins that have the potential to pose a severe threat to animal or plant health, or to animal or plant products. The Act requires the biennial review and republication of the list of select agents and toxins and the revision of the list as necessary. This action implements the findings of the third biennial review of the list. In addition, we are reorganizing the list of select agents and toxins based on the relative potential of each select agent or toxin to be misused to adversely affect human, plant, or animal health. Such tiering of the list allows for the optimization of security measures for those select agents or toxins that present the greatest risk of deliberate misuse with the most significant potential for mass casualties or devastating effects to the economy, critical infrastructure, or public confidence. We are also making a number of amendments to the regulations, including the addition of definitions and clarification of language concerning security, training, biosafety, biocontainment, and incident response. These changes will increase the usability of the select agent regulations as well as provide for enhanced program oversight.

DATES: The amendments to 7 CFR 331.1 through 331.10, 331.13, and 331.16 through 331.20 and 9 CFR 121.1 through 121.10, 121.13, 121.16, 121.17, and 121.20 are effective December 4, 2012. The remaining provisions of this final rule are effective April 3, 2013.

FOR FURTHER INFORMATION CONTACT: Mr. Charles L. Divan, Acting Director, APHIS Agriculture Select Agent Program, APHIS, 4700 River Road Unit 2, Riverdale, MD 20737–1231; (301) 851–3300, option 1.

SUPPLEMENTARY INFORMATION:

Executive Summary

On July 29, 2010, we published in the **Federal Register** (75 FR 44724–44725, Docket No. APHIS–2009–0070) an advance notice of proposed rulemaking and request for comments (ANPR)[1] and On October 3, 2011, we published in the **Federal Register** (76 FR 61228–61244, Docket No. APHIS–2009–0070) a proposal[2] regarding our intent to amend and republish the list of select agents and toxins that have the potential to pose a severe threat to animal or plant health, or to animal or plant products, reorganize the list of select agents and toxins based on the relative potential of each select agent or toxin to be misused to adversely affect human, plant, or animal health, and amend the regulations in order to add definitions and clarify language concerning security, training, biosafety, biocontainment, and incident response.

Specifically, the ANPR solicited comments regarding whether there are other select agents or toxins that should be added to the Plant Protection and Quarantine (PPQ) and Veterinary Services (VS) lists of select agents and toxins, whether any of the select agents or toxins on the PPQ or VS lists should be removed, whether the PPQ and VS lists of select agents and toxins should be tiered based on the relative bioterrorism risk presented by each select agent or toxin, and whether the security requirements for select agents or toxins in the highest tier should be stratified based on type of use or other factors. Comments received as a result of the ANPR were used in order to inform our discussions on the content of the select agent list and our determination regarding reorganization of the list in the proposed rule. We solicited comments concerning our proposal for 60 days ending December 2, 2011. We reopened and extended the deadline for comments until January 17, 2012, in a document published in the **Federal Register** on December 15, 2011 (76 FR 77914, Docket No. APHIS–2009–0070). We received 30 comments by that date. They were from researchers, scientific organizations, laboratories, and universities.

Changes to the current regulations detailed in this final rule include:

1. Modification of the select agent and toxin list:
   - The following agents would no longer be considered PPQ select agents or toxins, or would be excluded from compliance with the select agent regulations: Any subspecies of *Ralstonia solanacearum* except race 3, biovar 2 and all subspecies of *Sclerophthora rayssiae* except var. *zeae, and Xylella fastidiosa,* citrus variegated chlorosis (CVC) strain.
   - The following agents would no longer be considered VS select agents or toxins, or would be excluded from compliance with the select agent regulations: Any low pathogenic strains of avian influenza virus, any strain of Newcastle disease virus which does not meet the criteria for virulent Newcastle disease virus, all subspecies *Mycoplasma capricolum* except subspecies *capripneumoniae* (contagious caprine pleuropneumonia), and all subspecies *Mycoplasma mycoides* except subspecies *mycoides* small colony (*Mmm* SC) (contagious bovine pleuropneumonia), Akabane virus; Bluetongue virus (exotic), Bovine spongiform encephalopathy agent; Camel pox virus; *Ehrlichia ruminantium* (Heartwater); Japanese encephalitis virus; Malignant catarrhal fever virus (Alcelaphine herpesvirus type 1); Menangle virus; and Vesicular stomatitis virus (exotic): Indiana subtypes VSV–IN2, VSV–IN3.
   - The following agent would no longer be considered a VS/Department of Health and Human Services (HHS) overlap select agent: Venezuelan Equine Encephalitis Virus (subtypes ID and IE).
2. Tiering of the select agent and toxin lists:

   Tier 1 select agents and toxins:
   - PPQ select agents and toxins: None.
   - VS select agents and toxins: Foot-and-mouth disease virus and Rinderpest virus.
   - VS/HHS overlap select agents and toxins: *Bacillus anthracis, Burkholderia mallei,* and *Burkholderia pseudomallei.*
3. Establishing physical security standards for entities possessing Tier 1 select agents and toxins, including the requirement to conduct pre-access assessments and ongoing monitoring of personnel with access to Tier 1 agents and toxins;
4. Miscellaneous revisions to the regulations to clarify regulatory language concerning security, training, biosafety, and incident response.

Costs of the Rule: Entities affected by the rule include research and diagnostic facilities; Federal, State, and university laboratories; and private commercial and non-profit enterprises. The regulations require registering the

[1] To view the ANPR and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS–2009–0070.*

[2] To view the proposed rule and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS–2009–0070.*

possession, use, and transfer of select agents or toxins. In addition, the entity is required to ensure that the facility where the agent or toxin is housed has adequate biosafety and containment measures, that the physical security of the premises is adequate, that all individuals with access to select agents or toxins have the appropriate education, training, and/or experience to handle such agents or toxins, and that complete records concerning activities related to the select agents or toxins are maintained.

The rule will further reduce or minimize the risk of misuse of select agents and toxins that have the potential to pose a severe threat to human, animal or plant health, or to animal or plant products. APHIS and HHS recognize that several of the required measures of the regulations may impose certain operational costs upon affected entities, particularly entities that have the newly designated Tier 1 select agents and toxins. In many cases, however, the affected entities already employ some or all of the required measures. Compliance costs actually incurred will therefore vary from one entity to the next.

While information on the specific changes that would need to occur at individual sites and the associated costs was not readily available during proposed rulemaking, some general observations regarding the potential costs were presented. These general cost observations can be found in Table 2 of the Regulatory Impact Analysis located at: *www.regulations.gov* and at *http://www.selectagents.gov*.

Benefits of the Rule: The objectives of the final rule is to create a means of ensuring enhanced oversight in the transfer, storage, and use of select agents and toxins; define the security procedures and suitability assessments for pre-access suitability and continual monitoring of individuals with access to Tier 1 select agents and toxins; and require that entities in possession of such agents and toxins develop and implement effective means of biosafety, information security, and physical security. The overall benefit of the amended provisions will be a reduced likelihood of the accidental or intentional release of a select agent or toxin and the avoidance of costs associated with such a release. The goal of the amended regulations is to enhance the protection of human, animal, and plant health and safety.

Background

The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (referred to below as the Bioterrorism Response Act) provides for the regulation of certain biological agents that have the potential to pose a severe threat to both human and animal health, to animal health, to plant health, or to animal and plant products. The Animal and Plant Health Inspection Service (APHIS) has the primary responsibility for implementing the provisions of the Act within the Department of Agriculture (USDA). Veterinary Services (VS) select agents and toxins are those that have been determined to have the potential to pose a severe threat to animal health or animal products. Plant Protection and Quarantine (PPQ) select agents and toxins are those that have the potential to pose a severe threat to plant health or plant products. Overlap select agents and toxins are those that have been determined to pose a severe threat to human and animal health or animal products. Overlap select agents are subject to regulation by both APHIS and the Centers for Disease Control and Prevention (CDC), which has the primary responsibility for implementing the provisions of the Act for the Department of Health and Human Services (HHS).

Subtitle B (which is cited as the "Agricultural Bioterrorism Protection Act of 2002" and referred to below as the Act), section 212(a), provides, in part, that the Secretary of Agriculture (the Secretary) must establish by regulation a list of each biological agent and each toxin that the Secretary determines has the potential to pose a severe threat to animal or plant health, or to animal or plant products. Paragraph (a)(2) of section 212 requires the Secretary to review and republish the list every 2 years and to revise the list as necessary. In this document, we are amending and republishing the list of select agents and toxins based on the findings of our third biennial review of the list.

In determining whether to include an agent or toxin on the list, the Act requires that the following criteria be considered:

- The effect of exposure to the agent or the toxin on animal and plant health, and on the production and marketability of animal or plant products;
- The pathogenicity of the agent or the toxin and the methods by which the agent or toxin is transferred to animals or plants;
- The availability and effectiveness of pharmacotherapies and prophylaxis to treat and prevent any illness or disease caused by the agent or toxin; and
- Any other criteria that the Secretary considers appropriate to protect animal or plant health, or animal or plant products.

We use the term "select agents and toxins" throughout the preamble of this final rule. Unless otherwise specified, the term "select agents and toxins" will refer to all agents or toxins listed by APHIS. When it is necessary to specify the type of select agent or toxin, we will use the following terms: "PPQ select agents and toxins" (for the plant agents and toxins listed in 7 CFR 331.3), "VS select agents and toxins" (for the animal agents and toxins listed in 9 CFR 121.3), or "overlap select agents and toxins" (for the agents and toxins listed in both 9 CFR 121.4 and 42 CFR 73.4).

On October 3, 2011, we published in the **Federal Register** (76 FR 61228–61244, Docket No. APHIS–2009–0070) a proposal [3] to amend and republish the list of select agents and toxins that have the potential to pose a severe threat to animal or plant health, or to animal or plant products, reorganize the list of select agents and toxins based on the relative potential of each select agent or toxin to be misused to adversely affect human, plant, or animal health, and amend the regulations in order to add definitions and clarify language concerning security, training, biosafety, biocontainment, and incident response.

We solicited comments concerning our proposal for 60 days ending December 2, 2011. We reopened and extended the deadline for comments until January 17, 2012, in a document published in the **Federal Register** on December 15, 2011 (76 FR 77914, Docket No. APHIS–2009–0070). We received 30 comments by that date. They were from researchers, scientific organizations, laboratories, and universities. They are discussed below by topic.

Guidance Documents

In the proposed rule, we specifically requested comment from the regulated community and any other interested persons on the need for and desirability of guidance documents that would serve to assist regulated entities in meeting the requirements of regulations. We were particularly interested in public comment regarding Web sites, articles, or other sources useful in developing such guidance documents. We received a number of comments on the issue of guidance, which are discussed below.

Two commenters suggested the use of specific documents in creating guidance: The Laboratory Biorisk Management Standard, which was

[3] To view the proposed rule and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2009-0070*.

developed by the European Committee for Standardization, and the report "Guidance for Enhancing Personnel Reliability and Strengthening the Culture of Responsibility," which was developed by the National Science Advisory Board for Biosecurity.

We agree with the commenters and have utilized both sources in developing guidance.

One commenter stated that the select agent program should develop a standardized template that addresses each item required by the regulations, both for regulated entities and inspectors. The commenter went on to say that the templates should be posted on the select agent Web site.

The National Select Agent Registry at www.selectagents.gov includes checklists, guidance documents, and templates that we have developed to aid entities in meeting the requirements of the regulations. The select agent program also conducts regular inspector training in order to standardize inspector understanding of the regulations and inspection process. We accept entity feedback regarding the inspection process and incorporate it into our training program as appropriate.

Another commenter stated that the involvement of regulated entities in the development of guidance is crucial, as it will ensure that the new regulations may be implemented without unsustainable increases in cost to those entities.

The guidance documents developed in conjunction with this rule are, in part, a response to the questions and issues raised by the commenters regarding various aspects of the proposed rule. We also consulted HHS and USDA subject matter experts and other sources including National Science Advisory Board for Biosecurity, the National Academies, the Department of Defense Security Engineering Facilities Planning Manual, and Director of Central Intelligence Directive Number 6/9. Regarding the commenter's cost concerns, the guidance developed by the select agent program does not set out a prescriptive series of procedures that must be followed by all regulated entities; rather, it establishes examples of ways in which an entity may choose to meet the requirements of the regulations. We have purposefully left the regulations in their general state in order to allow for the wide variety of regulated entities to meet the regulatory standard in a way that is most cost-effective for each.

PPQ Select Agents and Toxins

We proposed to amend the list of PPQ select agents and toxins listed in 7 CFR 331.3 by removing *Xylella fastidiosa*, citrus variegated chlorosis (CVC) strain, from the list as it no longer meets the criteria for use as an agroterrorism agent.

One commenter stated that the scientific basis for the removal of *Xylella fastidiosa* from the list was unclear and requested clarification concerning our decision. The commenter additionally stated that if the review process for such removal were to be transparent, with expert opinion from the public and private sector, including a sound scientific analysis and an assessment of the biosecurity risk of each agent; other plant pathogens on the list of select agents and toxins could potentially be removed.

We are making no changes as a result of this comment. Each agent on the select agent and toxin list was considered for retention or removal based on a variety of factors, including, but not limited to, the scientific concerns cited by the commenter. Further, the select agent program did employ subject-matter experts as part of the decision-making process as recommended by the commenter in addition to soliciting public comment. Experts in the biology of these agents and toxins evaluated their "potential for mass casualties or devastating effects to the economy, critical infrastructure, or public confidence." This evaluation included assessments of morbidity and mortality, communicability, low infectious dose, availability of countermeasures, and economic impact of a potential attack. Each agent and toxin was then assessed for its "risk of deliberate misuse," including its history of weaponization and/or known interest by State or non-State adversaries. These evaluations, combined with input received as a result of the publication of an advance notice of proposed rulemaking and request for comments (ANPR)[4] in the **Federal Register** on July 29, 2010, and relevant findings in recent government and non-government reports, formed the basis for deliberations concerning which agents should constitute the list. It is important to note that removal of pathogens from the list of select agents and toxins does not mean that they are not of potential concern, but rather that the risk they represent has been reevaluated using the above criteria. Reduction of the list is meant to decrease the burden on researchers and focus attention on agents and toxins judged to be of greatest biosecurity concern.

The list of PPQ select agents and toxins includes an entry for *Xanthomonas oryzae*. While we did not propose any changes to the entry for *Xanthomonas oryzae*, one commenter stated that it should be removed from the list of select agents and toxins and offered a number of arguments, which are discussed below.

The commenter proposed the removal of *Xanthomonas oryzae* based on the assertion that *Xanthomonas oryzae* populations are adapted only to local conditions and do not persist upon introduction to new environments. Given that the major natural host for *Xanthomonas oryzae* is rice, the commenter also compared cultivation practices utilized in domestic commercial rice production with those utilized in Asian commercial rice production. The commenter argued that domestic commercial cultivation practices eliminate transmission of the pathogen since rice seeds are directly planted whereas in Asia rice seedlings are cultivated elsewhere and then transplanted, and wounds created during such handling and transplant are important modes of transmission for the pathogen to healthy seedlings. In addition, the commenter said that domestic weather patterns are not conducive to dissemination and that quarantines can prevent seed-borne disease. The commenter claimed that field-to-field spread of *Xanthomonas oryzae* in Asia is largely dependent on the strong winds and driving rains that occur frequently during typhoon season.

We are making no changes to the regulations as a result of this comment. Natural spread or persistence of the pathogen in a particular location is not at issue; it is the risk of deliberate misuse leading to the most significant potential for mass casualties or devastating effects to the economy, critical infrastructure, or public confidence. The issue of standard commercial planting practices for rice in a domestic versus Asian setting is not relevant to the discussion of *Xanthomonas oryzae*'s potential for use as a biological weapon. APHIS analyzed and assessed this pathogen using the criteria discussed earlier in this document. Based on that analysis and assessment and the knowledge that *Xanthomonas oryzae* has been modified for use as a biological weapon in the past, it has been retained on the list of PPQ select agents and toxins.

The commenter also stated that *Xanthomonas oryzae* should be

[4] To view the ANPR and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2009-0070.*

removed from the list of select agents and toxins because it is endemic in the United States and any foreign strains introduced in the future would prove unlikely to establish and spread.

While we disagree with the commenter's assertion regarding *Xanthomonas oryzae's* pathogenicity, these arguments are unrelated to the work of the select agent program as a whole as the select agent regulations do not allow for the environmental release of listed agents and toxins. Whether or not a given select agent or toxin is endemic in the United States is not the only determining factor in the select agent or toxin's inclusion on the list. The regulations govern use of listed select agents and toxins in laboratory settings only. In this regard, the case for maintaining *Xanthomonas oryzae* on the list of those select agents and toxins whose deliberate misuse represents the most significant potential for mass casualties or devastating effects to the economy, critical infrastructure, or public confidence, is compelling as work was done on *Xanthomonas oryzae* in the 1970s which led to its classification as a bioterrorism agent by the security community.

The list of PPQ select agents and toxins includes an entry for *Ralstonia solanacearum*, race 3, biovar 2. While we did not propose any changes to the entry for *Ralstonia solanacearum*, race 3, biovar 2, five commenters stated that it should be removed from the list of select agents and toxins.

The commenters argued that, based on the biological and historical climate data for North America, *Ralstonia solanacearum*, race 3, biovar 2 does not have the potential to pose a severe threat to plant health or plant products in the context of U.S. agriculture. The commenters stated that *Ralstonia solanacearum*, race 3, biovar 2 is only a serious problem in the developing world in those areas of cool highland tropics where annual temperature profiles differ significantly from those found in the major potato growing regions in the United States (i.e., Colorado, Idaho, Maine, Minnesota, North Dakota, and Wisconsin). The commenters argued that, unlike the northern States, the cool highland tropics experience few hard freezes and no long winters. Since, the commenters claimed, epidemiological and laboratory research data show that *Ralstonia solanacearum*, race 3, biovar 2 is intolerant of freezing and freeze-thaw cycles and does not generally survive winters in regions with sustained low temperatures, the bacterium is unlikely to become established in the northern U.S. where potatoes are commercially grown.

We disagree with the commenters' claim that *Ralstonia solanacearum*, race 3, biovar 2 is only a serious pathogen in the developing world as the bacterium has been shown to establish itself in northern Europe by over-wintering in weeds, thereby posing a severe threat to *Solanaceae* species (e.g., potato, eggplant, and tomato) in cool climates such as those found both in northern Europe and North America. In addition, as discussed earlier in this document, the evaluation process for select agents includes broad criteria that not only focus on the biological characteristics of a given pathogen, but also that pathogen's ability to produce a devastating effect on the economy and the threat that pathogen represents if it were to be used as a biological weapon. We are making no changes as a result of these comments.

The commenters also stated that retaining *Ralstonia solanacearum*, race 3, biovar 2 on the list of select agents and toxins would further constrain research in the field of *Ralstonia* research. The commenters attributed such listing with registration time for use, transfer, or possession of select agents and toxins in excess of 18 months prior to the initiation of research and difficulty in meeting the registration requirements.

We are making no changes in response to these comments. While there are added requirements concerning physical security, personnel authorization, recordkeeping, biocontainment, and site inspections, we do not believe these requirements will impede research as, in many cases these regulations serve to codify systems and procedures already in use by a majority of regulated entities. Further, entity registration for use, transfer, or possession of select agents and toxins does not take, nor has ever taken, 18 months. On average, new entity registration takes 6 months from the date the request is received by the select agent program and the issuance of the registration certificate. The security risk assessment (SRA) takes less than 45 days and runs parallel to the entity registration process. These timeframes are all based on the assumption that the entity registration submission and the SRA submission are complete and accurate for select agent program review prior to the required on-site inspection.

Commenters additionally stated that *Ralstonia solanacearum*, race 3, biovar 2 should be removed from the list for the same reasons that were cited for the proposed removal of *Xylella fastidiosa*, CVC strain.

We are making no changes as a result of these comments. The decision to remove the CVC strain from the list of select agents and toxins was based on the completion of extensive review and analysis of the criteria for inclusion on the list. In particular, the creation of detection methods and the use of geostatistical analysis with relation to monitoring in order to facilitate a response to any purposeful introduction are both key components in our decision to delist CVC. As discussed earlier in this document, the evaluation process for select agents includes a broad number of criteria that not only focus on the biological characteristics of a given pathogen but also that pathogen's ability to produce a devastating effect on the economy and the threat that pathogen represents if it were to be used as a biological weapon. Based on that analysis and assessment *Ralstonia solanacearum*, race 3, biovar 2 will remain on the list of select agents and toxins.

Commenters said that eradicating *Ralstonia solanacearum*, race 3, biovar 2 introduced into the United States through infected geraniums cost commercial greenhouses and importers millions of dollars as a direct result of its presence on the list of select agents and toxins.

We are making no changes as a result of these comments. The presence of *Ralstonia solanacearum*, race 3, biovar 2 on the list of select agents and toxins had no bearing on the eradication program instituted by APHIS. The cost of this eradication program to commercial greenhouses and importers was the same as the cost of eradicating any other quarantine plant pathogen not known to be present in the United States.

Identification of Strains

The list of VS select agents and toxins includes an entry for virulent Newcastle disease virus. While we did not propose any changes to the entry for virulent Newcastle disease virus, one commenter stated that, by not considering all forms of Newcastle disease virus as select agents, APHIS has created a period of uncertainty prior to the completion of the sequencing necessary to identify whether a form of Newcastle disease virus is virulent or not. The commenter requested clarification as to whether laboratories would be required to treat uncharacterized Newcastle disease virus as a select agent given this uncertainty.

We agree with the commenter's point. We have therefore revised the list of VS only select agents and toxins in order to list certain select agents and toxins not by specific strains but by the generic

taxonomic classifications for those select agents. The specific VS only select agents and toxins affected are: Avian influenza virus (highly pathogenic), *mycoplasma capricolum* subspecies *capripneumoniae* (contagious caprine pleuropneumonia), *mycoplasma mycoides* subspecies *mycoides* small colony (*Mmm* SC) (contagious bovine pleuropneumonia), and virulent Newcastle disease virus, which we have altered to read avian influenza virus, *mycoplasma capricolum, mycoplasma mycoides,* and Newcastle disease virus, respectively. In order to capture the applicable strains, subtypes, or pathogenicity levels we have also added exemptions for those strains, subtypes, or pathogenicity levels of certain select agents and toxins which are not considered to have the potential to pose a severe threat to animal health or animal products.

The list of overlap select agents and toxins contains an entry for Venezuelan equine encephalitis. One commenter stated that, by not considering all subtypes of Venezuelan equine encephalitis as select agents, APHIS has created a period of uncertainty prior to the completion of the typing necessary to identify whether a form of Venezuelan equine encephalitis is among the subtypes classified by APHIS as select agents. The commenter requested clarification as to whether laboratories would be required to treat untyped Venezuelan equine encephalitis as a select agent given this uncertainty.

We agree with the commenter's point. As stated previously, we have therefore revised the list of overlap select agents and toxins in order to list certain select agents and toxins not by specific strains but by the generic taxonomic classifications for those select agents. The specific overlap select agent is Venezuelan equine encephalitis virus: Epizootic Subtypes IAB, IC, which we have altered to read Venezuelan equine encephalitis virus. In order to capture the applicable strains, subtypes, or pathogenicity levels we have also added exemptions for those strains, subtypes, or pathogenicity levels of certain select agents and toxins which are not considered to have the potential to pose a severe threat to animal or human health or animal products. We do note that we have specifically included *Bacillus anthracis* (Pasteur strain) in the list of overlap select agents and toxins. This is necessary in order to distinguish this strain, which we do not consider to be a Tier 1 select agent, from all other strains of *Bacillus anthracis,* which are classified as Tier 1 select agents.

Although we did not receive any comments on this issue as it concerns PPQ only select agents and toxins, in order to strengthen the regulations as discussed previously as well as to maintain parity between the VS and PPQ regulations, we are revising the list of PPQ only select agents and toxins in order to list certain select agents and toxins not by specific strains but by the generic taxonomic classifications for those select agents. The specific PPQ only select agents and toxins affected are: *Ralstonia solanacearum,* race 3, biovar 2 and *Sclerophthora rayssiae* var. *zeae* which we have altered to read *Ralstonia solanacearum* and *Sclerophthora rayssiae,* respectively. In order to capture the applicable strains, subtypes, or pathogenicity levels we have also added exemptions for those strains, subtypes, or pathogenicity levels of certain select agents and toxins which are not considered to have the potential to pose a severe threat to plant health or plant products.

With the changes described above, we clearly establish that when an agent or toxin is initially identified to a taxonomic level, in the case of an agent, or by its toxicological properties, in the case of a toxin, it is regulated under the select agent regulations until further testing is accomplished to exclude the particular agent by strain, subtype, pathogenicity levels, or a particular toxin by properties. We believe it is important that laboratories treat these agents as select agents until further testing can be conducted to verify whether the agent is of a strain, subtype, or pathogenicity level that presents a higher level of danger to animal health and safety. These changes will not have any impact on the exemption for diagnostic laboratories or alter the process of receiving diagnostic samples and forwarding any potentially identified select agents for further testing. They also do not change the reporting criteria for those agents confirmed to be select agents. Finally, they do not change the current lists of select agents and toxins but alters the fashion in which select agents and toxins are listed with specific exemptions included to ensure that appropriate verification of the agents by strains, subtypes, or pathogenicity level occurs.

VS Select Agents and Toxins

We proposed to remove nine VS select agents and toxins from the list set out in § 121.3(b). Specifically, we proposed to remove the following: Akabane virus; Bluetongue virus (exotic), Bovine spongiform encephalopathy agent; Camel pox virus; *Ehrlichia ruminantium* (Heartwater); Japanese encephalitis virus; Malignant catarrhal fever virus (Alcelaphine herpesvirus type 1); Menangle virus; and Vesicular stomatitis virus (exotic): Indiana subtypes VSV–IN2, VSV–IN3.

One commenter recommended that we exclude the Texas GB strain of Newcastle disease virus from select agent status. The commenter stated that the exclusion is warranted since, although Newcastle disease virus is widespread in the environment, there is little illness if a flock is exposed because nearly all commercial poultry is vaccinated against the disease. The commenter observed that the Texas GB strain of Newcastle disease virus is used by vaccine manufacturers as the challenge organism to verify the potency of Newcastle disease virus vaccines and this fact gives poultry producers a high degree of assurance that their flocks are protected against the Texas GB strain. Given these factors, the commenter concluded that the Texas GB strain is not a biosecurity threat to the domestic poultry industry, and the strain should be excluded from APHIS's definition of virulent Newcastle disease virus.

We are making no change in this final rule as a result of this comment. Texas GB strain of Newcastle disease virus is a highly virulent form of Newcastle disease virus and, as such, is appropriately included in the general category of "virulent Newcastle disease virus." While vaccine manufacturers do use the Texas GB strain of Newcastle disease virus as a challenge organism for Newcastle disease virus vaccines, this is on account of its high level of virulence. A vaccine effective against the Texas GB strain of Newcastle disease virus can therefore be assumed to be effective against less virulent forms of Newcastle disease virus.

The list of VS select agents and toxins includes an entry for avian influenza virus (highly pathogenic) (HPAI). While we did not propose any changes to the entry for HPAI, one commenter proposed that we change the guidance by which influenza strains are categorized as HPAI. The commenter argued that extensive evidence has been obtained to support the conclusion that, while the HA polybasic cleavage site is the primary determinant for HPAI strains, strains with removed HA polybasic cleavage sites have been created, tested, and ultimately excluded from select agent status. The commenter stated that, as a result of these experiments and history, APHIS should specify that avian influenza strains without the HA polybasic cleavage site are not HPAI viruses and, therefore, not subject to the select agent regulations.

The commenter further argued that continuing to consider strains of avian influenza with removed HA polybasic cleavage sites as select agents until such time as an exclusion is granted would impede vaccine availability in the event of an HPAI pandemic in either the human or avian population. The commenter stated that the lead candidates for the seed viruses that would be used to make vaccines against HPAI viruses during such an event will likely be attenuated strains with mutated polybasic cleavage sites. The commenter stated that the current process by which avian influenza strains that lack the polybasic cleavage site are granted exclusions takes weeks or months, an untenable timeline in the event of an HPAI pandemic.

We are making no changes in response to this comment. APHIS standards are based on existing internationally recognized requirements established by the World Animal Health Organization (OIE). In the event of a future HPAI pandemic such as the one described by the commenter, APHIS would work in conjunction with HHS to address any vaccine availability issues. Finally, attenuated strains of select agents officially approved for human vaccination purposes by the Food and Drug Administration (FDA) or other recognized national or international organizations continue to be exempt from the select agent regulations as specified by the regulations in § 121.5(c) and (d).

Overlap Select Agents and Toxins

We proposed to modify the list of overlap select agents and toxins by removing certain subtypes of Venezuelan equine encephalitis virus from the list of overlap select agents and toxins set out in 9 CFR 121.4(b), and to clarify that only Venezuelan equine encephalitis subtypes IAB and IC would remain on the list. These subtypes contain the only recognized strains of Venezuelan equine encephalitis that can suddenly affect a large number of animals over a large area (i.e., epizootic). The remaining subtypes, ID and IE, are strains prevalent among existing animal populations (i.e., enzootic) and do not represent the same type of risk. Other viruses within the Venezuelan equine encephalitis complex (subtypes IF and II through IV) are separate viruses and are not included in the list of overlap select agents and toxins.

Another commenter recommended that we remove Venezuelan equine encephalitis strain 3014 from the list of select agents and toxins. The commenter argued that, although strain 3014 was derived from a 1AB isolate, this molecularly cloned strain has properties that render it incapable of causing epizootic or epidemic transmission. The commenter stated that mutations selected after only a handful of passages make the virus avirulent in adult mice and dramatically increases its clearance from the bloodstream of mice following intravenous inoculation. Further, the vanishingly low titers of strain 3014 consist of envelope glycoprotein gene mutations, which allow the strain to bind heparin sulfate; such binding is also associated with the attenuated phenotype of Venezuelan equine encephalitis strain TC–83, which is also derived from the 1AB Trinidad donkey strain by passage in culture that has already been excluded from select agent status.

We are making no changes as a result of this comment. Since Venezuelan equine encephalitis strain 3014 is derived from a listed overlap select agent, the commenter's proposal for its removal is more appropriately addressed via the exclusion process for overlap select agents and toxins as detailed in 9 CFR 121.6. We have contacted the commenter and provided guidance regarding how they may initiate this process.

We proposed to designate *Bacillus anthracis* as a Tier 1 select agent. A number of commenters objected to such a blanket designation, arguing instead that the *Bacillus anthracis* Pasteur strain should be exempted from consideration both as a Tier 1 select agent and as a select agent in general.

One commenter argued that given the fact that Laboratory Response Network (LRN) laboratories maintain live cultures of non-pathogenic *Bacillus anthracis* Pasteur strain for use in quality control testing, designation of *Bacillus anthracis* as a Tier 1 select agent therefore has the potential to impact the willingness or ability of LRN laboratories to maintain inventories of *Bacillus anthracis* Pasteur strain due to the regulatory and financial burdens associated with possession of Tier 1 select agents and toxins. The commenter went on to state that this situation could potentially impact national health and safety given that the potential use of *Bacillus anthracis* spores as a bioweapon remains a viable threat and increased burdens, particularly on small laboratories, could lead to the overall decrease in the number of laboratories that would otherwise serve to ensure that the LRN has sufficient capacity to detect and respond to a deliberate release of *Bacillus anthracis*.

Three commenters stated that the *Bacillus anthracis* Pasteur strain is analogous to the *Bacillus anthracis* Sterne strain, which is excluded since it was determined not to pose a severe threat to public health and safety, animal health, or animal products. The commenter argued that *Bacillus anthracis* Pasteur strain should not be considered as a select agent given that the only way to create an agent that poses a severe threat would be via combination of the Pasteur strain with a non-regulated strain. The commenter pointed out that other agents that pose little harm individually, but could be modified genetically to become harmful are not included on the select agent list because of this potential threat.

Another commenter claimed that the designation of *Bacillus anthracis* Pasteur strain as a select agent would not serve to prevent an authorized person from intentionally or accidentally facilitating the combination of plasmids from Sterne and Pasteur types of strains to create a wild type phenotype. The commenter stated that combination of these two strains can be accomplished no matter what sort of physical security may be employed to prevent access, theft, loss, or release of the agent. The commenter concluded that more effective preventive measures can be achieved through training and educating microbiologists on how to avoid accidentally combining these two strains and by penalizing any individuals who intentionally try to combine them.

We agree with the commenters that *Bacillus anthracis* Pasteur strain is attenuated and poses a significantly lower risk than wild type *Bacillus anthracis* strains. We also agree that the Pasteur strain is not likely to have the potential for mass casualties or devastating effects to the economy, critical infrastructure, or public confidence and therefore does not meet the criteria used to apply the Tier 1 designation. In addition, we note that the Pasteur strain has been used successfully as a veterinary and human vaccine, which further demonstrates the attenuation of this strain. Therefore we have determined that the *Bacillus anthracis* Pasteur strain should not be designated as a Tier 1 select agent.

While we agree that the *Bacillus anthracis* Pasteur strain does not meet the criteria for inclusion as a Tier 1 select agent, we do not agree with the argument that regulating the *Bacillus anthracis* Pasteur strain would not serve to prevent the accidental (or intentional) generation of a wild type *Bacillus anthracis* strain by the combination of the *Bacillus anthracis* Pasteur strain with the *Bacillus anthracis* pXO1+/ pXO2- Sterne strain. Retaining the

Bacillus anthracis Pasteur strain as a select agent will allow for continued oversight of laboratories in which the accidental (or intentional) combination of this strain with the *Bacillus anthracis* Sterne strain could occur to produce the wild type phenotype of *Bacillus anthracis* de novo. Failure to retain the *Bacillus anthracis* Pasteur strain as a select agent could result in an environment in which the probability of creation of virulent wild type *Bacillus anthracis* strains by the combination of non-regulated strains would be enhanced. Therefore, we have chosen not to exclude the *Bacillus anthracis* Pasteur strain from the list of select agents in this rulemaking. We will continue to evaluate exclusion requests as additional information becomes available in this area.

As explained above under the heading "VS Select Agents and Toxins," avian influenza virus (highly pathogenic) is currently on the list of VS only select agents and toxins. One commenter recommended that, in light of recent studies whereby researchers have generated derivatives of influenza virus A (H5N1) capable of efficient aerosol transmission, we add "Replication competent forms of influenza virus A (H5N1) capable of efficient aerosol transmission in ferrets or primates containing any portion of the coding regions of all eight gene segments [influenza virus A (H5N1) capable of efficient aerosol transmission in ferrets or primates]" to the list of overlap select agents and toxins. The commenter also recommended that this type of avian influenza virus be classified as a Tier 1 agent given the historical 50 percent case-fatality rate of avian influenza virus A (H5N1) in humans.

The select agent program is currently in discussions regarding this issue and may address it in future rulemaking. Given the stage these discussions are in, however, we are not making any changes in this final rule based on this comment.

Reorganization of the Current List of Select Agents and Toxins

We proposed to establish a number of select agents and toxins as "Tier 1" select agents and toxins within the lists of VS and overlap select agents and toxins. Specifically, we proposed to list foot-and-mouth disease (FMD) virus and rinderpest virus as Tier 1 VS select agents and toxins and *Bacillus anthracis, Burkholderia mallei,* and *Burkholderia pseudomallei* as Tier 1 overlap select agents and toxins. We did not include PPQ select agents and toxins in this proposed reorganization because none of the PPQ select agents and toxins met the minimum criteria for inclusion on the proposed Tier 1 select agents and toxins list. All other select agents and toxins would continue to be subject to the current requirements concerning select agents and toxins.

One commenter argued that *Burkholderia mallei* and *Burkholderia pseudomallei* should not be classified as Tier 1 select agents. The commenter stated that these two select agents do not represent the same level of concern as the other select agents proposed for inclusion in Tier 1 and should therefore be assigned non-Tier 1 status.

Another commenter observed that *Bacillus anthracis* is less virulent than either *Yersinia pestis* or *Francisella tularensis,* which are on the list of HHS only select agents and toxins. The commenter additionally stated that the virulence of all three is far less than that of the hemorrhagic fever viruses and the encephalitis viruses that were not proposed for inclusion on the list of Tier 1 select agents and toxins. The commenter stated that significant advances have been made in the development of products for environmental decontamination and prophylaxis against inhalation of *Bacillus anthracis.*

We are making no changes to the regulations as a result of these comments. The process by which we determined which select agents and toxins should be designated as Tier 1 was multi-faceted and we are confident in the results of that process. Our determinations were not based on one aspect of each of the proposed select agents or toxins only. In order to determine which select agents and toxins should be given Tier 1 status, a two-part risk analysis was conducted on each. First, experts in the biology of these agents and toxins evaluated their potential for mass casualties or devastating effects to the economy, critical infrastructure, or public confidence. This process included assessments of morbidity and mortality, communicability, low infectious dose, availability of countermeasures, and economic impact of a potential attack. Second, each select agent and toxin was assessed for its risk of deliberate misuse, including its history of weaponization and/or known interest by State or non-State adversaries. These evaluations, combined with input from public comments received on our July 2010 ANPR and relevant findings in recent government and non-government reports, formed the basis for deliberations on which agents should constitute the Tier list. Agents that scored highly on both the public health and biothreat sets of criteria were judged to be those that were appropriately given a Tier 1 designation.

Two commenters pointed out that the categorization of select agents and toxins has already been carefully stratified into four biological safety levels (BSL) as specified by the CDC, with each BSL based on infectivity, virulence, and ease of transmission of the material in question. The commenters further observed that the Tier 1 designation implies the existence of a Tier 2 category which would require less attention to security. The commenters concluded that the process of tiering will only add confusion and administrative and financial burden to the current BSL grouping of select agents and toxins.

Two additional commenters stated that the proposed rule did not do enough to reduce the regulatory burden associated with non-Tier 1 agents. The commenters said that reduced levels of security requirements for personnel and facilities should be considered for non-Tier 1 agents.

In designating certain select agents and toxins as "Tier 1," the select agent program considered and rejected the idea of designating the remaining select agents and toxins as "Tier 2." The aim of establishing the Tier 1 category is to account for and respond to the particular risks associated with the agents and toxins in this category by increasing their handling and security requirements accordingly. The establishment of the Tier 1 category is in no way intended to imply that the non-Tier 1 select agents and toxins pose a lesser risk to public health and safety than they have previously. In accordance with that fact, we have not decreased the handling and security requirements for those non-Tier 1 agents. Biosafety levels describe the required combination of lab practices and techniques, safety equipment, and lab facilities appropriate for the operations being performed using potentially harmful materials such as select agents and toxins while the Tier 1 designation institutes security measures applicable to the agents and toxins themselves. For this reason there is no conflict that exists between BSL classifications and Tier 1 select agents and toxins.

Two commenters expressed concern regarding the proposal to list rinderpest virus as a Tier 1 agent, given that there are already special conditions in place as contained in §§ 121.3(f)(3)(i), 121.5(a)(3)(i), and 121.9(c)(1) concerning its handling and tracking. The commenters suggested that an alternative approach would be for APHIS to designate rinderpest virus as

a pathogen with very special handling requirements that is not considered to be part of either category of select agents. The commenters argued that this approach is justified due to the fact that rinderpest has now been officially eradicated worldwide.

We disagree with the commenters' suggestion to classify rinderpest virus as a separate type of agent apart from either of the select agent categories of designation. While it is true that rinderpest was declared to be officially eradicated by the OIE on May 25, 2011, this development does not render the disease any less of a concern as a select agent with potential for misuse. Enacting the suggestion that rinderpest virus be treated as a pathogen with "very special handling requirements" and not as either a Tier 1 or non-Tier 1 select agent would only serve to create a further level of required administrative oversight for regulated entities.

One commenter stated that the proposed tiering system poses significant questions as to the nature of the risk assessment process. Specifically, the commenter questioned listing as Tier 1 agents bacterial diseases that are treated with licensed antibiotics, that are not commonly spread person to person, and that are present in the environment of the United States, while viruses that have no known therapy and that pose extreme risk to Western populations are absent. The commenter further stated that the 20 criteria used for evaluation of each select agent and toxin should be made available to the regulated community for review and assessment.

We are making no changes as a result of this comment. The relative ease by which exposure to a select agent or toxin may be treated is only one aspect considered by the select agent program when determining the tier status of each. The 20 criteria referenced by the commenter are those employed by the Federal Experts Security Advisory Panel (FESAP) in providing recommendations to the select agent program. The criteria that the FESAP used in its risk assessment process are:

1. The relative ease with which a select agent or toxin might be acquired from a laboratory or commercial source;
2. The relative ease of production of a select agent or toxin;
3. The relative ease by which a select agent or toxin might be modified in order to enhance its pathogenicity, transmissibility, or ability to evade medical and non-medical countermeasures;
4. The potential for easy deliberate dissemination;
5. The potential for creating disease or illness;
6. The relative environmental stability of a select agent or toxin by itself and how well it survives in the environment in which it is formulated or disseminated;
7. The amount of select agent or toxin necessary to induce illness;
8. The relative ease with which a particular select agent or toxin might be disseminated or transmitted from one animal or person to another or into the environment where it could produce a deleterious effect upon animal, plant, or human health;
9. Whether the target population has innate immunity to the select agent or toxin or whether immunity has been acquired from a source such as vaccines;
10. The potential for the select agent or toxin to create morbidity (i.e., any non-fatal illness that renders partial dysfunction to an animal or human lasting weeks or months that will eventually resolve with medical, veterinary, and/or supportive care);
11. The burden placed on the human, veterinary, or plant health system by the deliberate release of the select agent or toxin;
12. The ability to detect a release of the select agent or toxin into the environment, food, water, or soil;
13. The ability of the human and agricultural health authorities to accurately and rapidly diagnose and treat the disease presented by a release of the select agent or toxin;
14. The existence of countermeasures to prevent, treat, or mitigate the symptoms of a disease caused by the release of a select agent or toxin and/or its spread through a population;
15. The potential for high animal, plant, or human mortality rates with delivery of medical countermeasures;
16. The potential for high animal, plant, or human mortality rates without delivery of medical countermeasures;
17. The short-term economic impact of a single outbreak of a disease or release of a toxin;
18. The human, monetary, and other resource costs of making an area, building, industrial plant, farm, or field safe for humans, animals or plants to inhabit following the release of the select agent or toxin;
19. The pathogen's ability to persist in the environment or to find a reservoir that makes its recurrence more likely; and
20. The long-term health or economic consequences caused by a single release of the select agent or toxin.

We believe that the process by which determinations were made regarding the Tier 1 or non-Tier 1 status of the select agents and toxins was responsive to regulated community concerns received during the comment period for the advance notice of proposed rulemaking as well as for the proposed rule.

One commenter asked why the requirements for working with plant pathogens had not been lessened. The commenter stated that a transparent process does not exist that is inclusive of expert opinion from both the private and public sectors to determine which agents should be removed or added to the list of select agents and toxins.

We are making no changes as a result of this comment. In creating the Tier 1 class of agents, the Select Agent Program considered and rejected the idea of designating the remaining agents as "Tier 2." The aim of establishing the Tier 1 category is to account for and respond to the particular risks associated with the agents and toxins in this category by increasing their handling and security requirements accordingly. The establishment of the Tier 1 category is in no way intended to imply that the non-Tier 1 agents pose a lesser risk to public health and safety than they have previously. In accordance with that fact, we have not decreased the handling and security requirements for those non-Tier 1 agents. Further, we determined that the establishment of more varying levels of risk would serve to create the need for increased administrative oversight and complication for regulated entities. We believe that the process by which these determinations were made was sensitive to public and expert opinion via the comment period on the initial advance notice of proposed rulemaking as well as on the proposed rule.

Security Measures for Tier 1 Select Agents or Toxins

We also proposed additions to the VS regulations that would allow for the optimization of security measures for those select agents or toxins that are designated as Tier 1. These requirements included:

- Additions regarding the assessment of persons prior to their access to Tier 1 select agents and toxins that would be made to the security plan currently required to be developed by all entities seeking approval for the possession, use, and transfer of select agents and toxins; ongoing oversight of those persons with access to Tier 1 select agents and toxins; and the role of the entity's responsible official in coordinating and assuring the security of Tier 1 select agents and toxins;
- Security enhancements that include provisions for security barriers, intrusion detection and monitoring,

delay/response force, access control, and information security;

• Additions to the biosafety plan currently required to be developed by all entities seeking approval for the possession, use, and transfer of select agents and toxins that would describe implementation of an occupational health program for individuals with access to Tier 1 select agents and toxins;

• Development of security policies and procedures describing the entity's response to a failure of an intrusion detection or alarm system and notification procedures for the Federal Bureau of Investigation (FBI) in the event of theft or suspicious activity that may be criminal in nature involving a Tier 1 select agent or toxin. These policies and procedures would be required as part of the entity's incident response plan; and

• Required annual insider threat awareness briefings focused on how to identify and report suspicious behaviors.

We have made changes to some of these proposed requirements, which are discussed in detail below.

Many commenters had questions or concerns regarding the additions to the security plan for those entities possessing a Tier 1 select agent or toxin as proposed in 9 CFR 121.11(e). Specific issues addressed by the commenters included: Conduct of pre-access suitability assessments, ongoing suitability assessments, and self- and peer-reporting of incidents or conditions that could affect an individual's ability to safely have access to or work with select agents and toxins. Commenters generally fell into two categories in their responses to the proposed additions: Some felt that the requirements were too vague to prove useful, creating administrative burden without improving the overall security of Tier 1 select agents and toxins, while others felt that the requirements could or would require entities to behave in a manner contrary to local laws, privacy laws, or union contracts.

For the most part, we anticipate that these requirements are already being met and that these regulations will merely require those entities possessing a Tier 1 select agent or toxin to codify and document the systems and processes currently in place. It should be noted that many of the specific concerns raised by commenters regarding potential violation of laws or union contracts arose as a result of the commenters' examination of those recommendations given to the select agent program by the FESAP. As a matter of clarification, the select agent program considered the FESAP recommendations, as well as recommendations from other sources (e.g., *National Science Advisory Board for Biosecurity*), in developing the proposed rule and suitability assessment guidance documents; however, we are not adopting all of the specific recommendations found in these studies. While we have created specific guidance to aid in compliance with this section of the revised regulations, we are deliberately leaving the regulatory text in its broadly-written state in order to allow entities a measure of flexibility in how they meet the requirements. Given our experience with the select agent and toxin regulations and the wide variety of regulated entities the regulations cover, we have found this to be the most effective approach. The guidance document developed in conjunction with this rule is, in part, a response to the questions and issues raised by the commenters. Issues addressed in this document include, but are not limited to:

• Understanding the risks and reasons for suitability assessments;

• Delineating the roles and responsibilities of individuals to ensure optimal security;

• Requesting information about individuals in a standardized manner and assessing individuals in the context of safety and security;

• Responding to reports in a consistent, prompt, and confidential manner; and

• Providing training for recognizing and reporting suspicious behavior.

Full guidance on this and other issues may be found on the National Select Agent Registry at *www.selectagents.gov*.

In 9 CFR 121.11(e)(4)(i), we proposed that regulated entities with Tier 1 select agents and toxins prescribe and/or implement "procedures that limit access to registered space only to those approved by the HHS Secretary or the Administrator and meet the criteria of the entity's program that will ensure individuals with access approval to select agents and toxins are trustworthy and behaving in a manner that upholds public health and safety, the protection of animal or plant health and animal or plant products, security, and the integrity of the scientific enterprise." We are making a minor change to the proposed language in 9 CFR 121.11(e)(4) in order to stipulate that entities must implement these security enhancements, not merely prescribe and/or implement them. The proposed rule stated that "Entities with Tier 1 select agents and toxins must prescribe and/or implement the following security enhancements." We are removing the words "prescribe and/or" for the purposes of clarity. Our original intent in creating that provision was to require the use of the security enhancements in question by those entities with Tier 1 select agents or toxins. By removing the words "prescribe and/or" we are eliminating a potential loophole by which entities may have been able to establish but not fulfill these requirements while remaining in compliance with the regulations.

Regarding the proposed language in 9 CFR 121.11(e)(4)(i), one commenter stated that the use of the phrase "trustworthy and behaving in a manner that upholds public health and safety, the protection of animal or plant health and animal or plant products, security, and the integrity of the scientific enterprise" would establish a regulatory standard that would prove difficult or impossible to enforce due to its subjective nature.

We agree with the commenter's observation and have changed the language to require that entities possessing Tier 1 select agents or toxins prescribe and implement "procedures that will limit access to a Tier 1 select agent or toxin to only those individuals who are approved by the HHS Secretary or Administrator, following a security risk assessment by the Attorney General, have had an entity-conducted pre-access suitability assessment, and are subject to the entity's procedures for ongoing suitability assessment." We believe that this establishes a more specific set of requirements for regulated entities.

In 9 CFR 121.11(e)(4)(iv) we proposed that regulated entities with Tier 1 select agents and toxins establish a minimum of three barriers where each subsequent barrier is different and adds to the delay in reaching secured areas where select agents and toxins are used or stored. Barriers would be required to be monitored in such a way as to detect and assess intentional and unintentional circumventing of established access control measures under all conditions (day/night, severe weather, etc.) Two commenters requested clarification regarding what was meant by the term "barrier" and asked for examples of what constitutes a barrier. The commenters suggested that a definition for "barrier" be added to the definitions sections in 7 CFR 331.1 and 9 CFR 121.1.

We agree with the commenters and we have added a definition for *security barrier* to read as follows: "A physical structure that is designed to prevent entry by unauthorized persons, animals, or materials." In addition, we have altered the language concerning security

barriers in 9 CFR 121.11(f)(4)(iv) in order to clearly indicate that the final security barrier must limit access to the select agent or toxin to personnel approved by the HHS Secretary or Administrator and following a security risk assessment by the Attorney General.

In 9 CFR 121.11(e)(4)(v), we proposed that all registered space and areas that reasonably afford access to the registered space must be protected by an intrusion detection system (IDS) unless physically occupied. One commenter stated that the proposed requirement contained a potential loophole by which an entity could argue that the presence of a janitor or similar personnel in registered space outside of normal working hours would allow that entity to avoid installation of an IDS. The commenter suggested that such a situation could be avoided by adding a stipulation that an IDS would need to be used when the entity was not "physically occupied by the routine contingent of working, approved employees."

We disagree with the commenter's observation as it is unlikely that the entity would be occupied at all hours, thus creating the loophole that would allow an entity to fail to install an IDS. We are also not adopting the commenter's suggestion to add language regarding the presence of approved employees as we believe that would create confusion concerning the number of employees that could be described as "the routine contingent." Further, the IDS is one aspect of the security measures required for regulated entities. In the scenario proposed by the commenter, the IDS would not be engaged if a janitor or other personnel were present in the entity outside of normal working hours; however, the other required physical security measures would serve to protect the entity at that time. Finally, the training and employee suitability assessments required for those employees with access to select agents and toxins would also serve to ensure that those employees who work in registered areas understand and can employ the necessary security and safeguarding measures to maintain the physical security of the entity.

In 9 CFR 121.11(e)(4)(vii), we proposed to require that entities provide backup power and energy sources to ensure that information security networks and integrated access controls and related systems will maintain power during emergencies. While we did not receive any comments on this issue, in response to comments received by CDC and in the interests of maintaining parity between the APHIS and HHS regulations, we are amending the text to stipulate that only those entities with powered access control systems will need to fulfill this requirement. We have also reworded the requirement to clarify that the aim is maintenance of physical security standards in the case of a power disruption and that this maintenance may, among the alternatives, take the form of backup power.

In 9 CFR 121.11(e)(4)(viii) we proposed that response time for security forces or local police must not exceed 15 minutes from the time of an intrusion alarm or report of a security incident for any entity with Tier 1 select agents and toxins. One commenter stated that such a requirement would be burdensome, unattainable, and cost-prohibitive depending upon the number and nature of the alarms. The commenter went on to state that the security system at their entity sounds an alarm when a door is held open longer than a preset length of time and that most alarms occur during working hours, primarily as the result of staff holding the door open too long. The commenter explained that requiring security respond to all these alarms is unwarranted, excessive, and costly. The commenter suggested that a better alternative would be for a laboratory supervisor or manager to be notified of and investigate these incidents, therefore allowing entities to respond in a manner commensurate with the severity of the incident that triggered the alarm.

Our selection of the 15 minute response time is based on Department of Defense (DOD) and DHS standards for high value assets and also on our analysis of incident response plans provided by the regulated community since 2003. However, based on this comment and others received by CDC, we have modified the language in this section. We have retained the 15 minute response time goal for security forces or local police, but we have also provided additional flexibility for entities to develop systems in line with the optimal achievable response time in their area. Entities may either incorporate the 15 minute response time into their security plans or determine an alternate response time calculated in conjunction with security forces or local police. Response time can be determined many ways. For example, an entity can:

- Enter into a formal agreement with local law enforcement.
- Discuss with local law enforcement.
- Discuss with the IDS service provider.
- Conduct an exercise with the guard force.

The issue of multiple false alarms and the potential costs associated with such a situation as raised by the commenter is more appropriately addressed at the entity level.

In 9 CFR 121.11(e)(4)(ix) we proposed to require that entities conduct complete inventory audits of all Tier 1 select agents and toxins in long-term storage upon the physical relocation of a collection or inventory of select agents or toxins for those Tier 1 select agents or toxins in the collection or inventory, upon the departure or arrival of a principal investigator for those Tier 1 select agents or toxins under the control of that principal investigator, or in the event of a theft or loss of a Tier 1 select agent or toxin.

We have reevaluated this provision in light of comments received on the CDC rule and, based on our experience with the select agent program, we believe that this requirement needs to be applied to all select agents and toxins, and not only Tier 1 select agents and toxins. This change serves to codify our current policy concerning inventory audits. We have therefore revised the language to address inventory verification for all select agents and toxins.

In the case of those entities which possess FMD and rinderpest virus, we proposed to require four barriers, including one barrier that is a perimeter security fence or equivalent. These requirements were listed in proposed 9 CFR 121.11(e)(5)(i). One commenter inquired as to what the equivalent to a perimeter security fence would be. The commenter also wished to know if an IDS would be considered a barrier.

One equivalent to a perimeter security fence would be a perimeter wall surrounding a specific building, complex, compound, or campus, with 24 hour a day, 7 days a week monitoring. Such a wall would serve a purpose identical to a perimeter security fence. We have developed guidance to assist entities with the security barrier requirement, which covers the issue of perimeter fencing. Guidance documents may be found on National Select Agent Registry at *www.selectagents.gov*. As to the commenter's question regarding the IDS: As stated above, a security barrier would include only natural or man-made obstacles preventing or delaying the movement of persons, animals, or materials. While an IDS may alert security or other personnel to potential incidents, the IDS itself would not be considered to be a security barrier since it does not actively create an obstacle or delay.

Another commenter asked whether the proposed requirements would make it illegal for U.S. veterinary diagnostic

laboratories to perform diagnostic and/or surveillance testing following an FMD outbreak on U.S. soil if the laboratories in question did not have a fourth security barrier. The commenter recommended that we revise the paragraph in order to clarify our intent.

We are making no changes as a result of this comment. The select agent program recognizes the critical role of diagnostic laboratories in the early detection of and response to outbreaks of select agent and toxin-related disease in humans and agriculture. While all of the Tier 1 regulatory requirements will apply to entities that maintain permanent stocks of Tier 1 select agents and toxins, in the case of a public health or agricultural emergency, a diagnostic laboratory may request to retain the select agent or toxin under the provisions contained in 9 CFR 121.6(e).

Two commenters recommended that the select agent program consult with administrators and laboratory managers from public and private research institutions prior to the development of any framework of suitability that can be used to address security concerns.

We will engage subject matter experts as necessary in the development of guidance documents which may be found on the National Select Agent Registry at *www.selectagents.gov*. The select agent program welcomes feedback on the usability and usefulness of existing guidance documents at any time.

One commenter suggested that the minimum security provisions for Tier 1 select agents and toxins should include video monitoring of all select agents and toxins work and storage areas, a two-person rule for entry into select agents and toxins work and storage areas, and psychological assessment and monitoring of those employees working with select agents and toxins.

We are making no changes as a result of this comment. The specific measures the commenter suggested were considered and rejected in favor of the more general requirements listed. The select agent program is highly conscious of the need to balance biosecurity and biocontainment concerns with allowing entities the necessary flexibility so as to not impede their research unduly. Since there is variety in the type and size of entities covered under the regulations, we believe this approach is warranted. We would note that the regulations do not preclude any given entity from adopting the approach suggested by the commenter, among others.

One commenter stated that, while many of the proposed security changes are already in place, some are not and it was unclear that additional costly or impractical security measures would provide any additional benefit since existing measures have proven adequate to protect the security of these agents.

We are making no changes as a result of this comment. It was our determination, based on the information available to us, that the additional security requirements would not constitute an economic burden on the regulated entities. In many cases these regulations serve to codify systems and procedures already in use in these regulated entities.

The regulations in 9 CFR 121.12 concern the development of a biosafety plan that establishes measures sufficient to contain the select agent or toxin (e.g., physical structure and features of the entity, and operational and procedural safeguards). We proposed to add a paragraph that would stipulate that entities registered to possess Tier 1 select agents or toxins establish an occupational health program for individuals with access to Tier 1 select agents and toxins. One commenter recommended that the occupational health program requirements be instituted for all select agents and toxins, regardless of their categorization.

We are making no changes in response to this comment. Due to the greater level of concern associated with Tier 1 select agents and toxins the select agent program needs to ensure that entity safety protocols are in place. Further, after considering the issue and in light of the fact that it caused confusion amongst some commenters on the CDC proposed rule, we are eliminating the sentence that reads, "The occupational health program may also be made available to individuals without access to Tier 1 select agents and toxins." While we believe that regulated entities should use their discretion and judgment in considering whether the creation of an occupational health program applicable to those employees working with non-Tier 1 select agents and toxins is needed, such a suggestion is not appropriately contained in the regulations. Guidance on the development of an occupational health program may be found on the National Select Agent Registry at *www.selectagents.gov*.

The regulations in 9 CFR 121.15 concern required mandatory training for staff and visitors who work in or visit areas where select agents or toxins are handled or stored. In 9 CFR 121.15(b), we proposed to add a requirement that entities with Tier 1 select agents and toxins must conduct annual insider threat awareness briefings on how to identify and report suspicious behaviors. One commenter stated that this training should be required for all registered entities possessing, storing, or transferring select agents, not just those with Tier 1 select agents or toxins.

We are making no changes in response to this comment. Due to the greater level of concern associated with Tier 1 select agents and toxins the select agent program needs to ensure that entity safety protocols are in place. Regulated entities should use their discretion and judgment in considering whether the creation of an annual insider threat awareness training program applicable to those employees working with non-Tier 1 select agents and toxins is needed. Guidance on the development of annual insider threat awareness training may be found on the National Select Agent Registry at *www.selectagents.gov*.

Another commenter asked for clarification and guidance regarding the requirement for annual insider threat awareness briefings. The commenter asked that the content of these threat awareness briefings be made available to public health laboratories so that it could then be specifically customized for various regions of the country.

While we have created specific guidance regarding this section of the revised regulations, that guidance does not take the form of a prescriptive program with content that may then be adapted and distributed as the commenter requests. Given our experience with the select agent and toxin regulations and the wide variety of regulated entities those regulations cover, we have found a broader approach to be most effective. The guidance documents developed in conjunction with this rule are, in part, a response to the questions and issues raised by the commenters. The documents will contain specific examples of best practices that we believe entities would be well served in adopting including, but not limited to, a designated person to manage the assessment of laboratory personnel, laboratorian involvement in threat migration, and those behaviors of concern which may indicate a possible insider threat. Full guidance on this and other issues may be found on the National Select Agent Registry at *www.selectagents.gov*.

Miscellaneous Changes

We proposed to make several smaller-scale changes to the regulations, including the addition of definitions and clarification of language concerning security, training, biosafety, biocontainment, and incident response. These changes are intended to increase the usability of the select agent

regulations as well as provide for enhanced program oversight.

In 7 CFR 331.1 and 9 CFR 121.1, we proposed to add definitions for *adjudicated as a mental defective, alien, committed to any mental institution, controlled substance, crime punishable by imprisonment for a term exceeding 1 year, indictment, lawfully admitted for permanent residence, mental institution,* and *unlawful user of any controlled substance.* These definitions, which described specific aspects of the proposed definition of *restricted person,* were intended to assist regulated entities as well as those seeking approval to access select agents and toxins to better understand what status or activities, past or present, might prohibit such access.

Four commenters stated that these definitions needed to be further clarified. The commenters generally characterized the proposed definitions as either overly restrictive or vague. After careful consideration we have agreed with the commenters and have decided not to include these definitions or a definition for *restricted person* in the final rule. We will look to develop additional guidance in this area.

We proposed to add a definition for *recombinant and synthetic nucleic acids.* This addition was deemed necessary, as the term "synthetic nucleic acids" is employed in the proposed changes to the select agent regulations. We proposed to include synthetic nucleic acids in the regulations because, while synthetic nucleic acids have the same potential for harm as recombinant nucleic acids. the process of production is different.

One commenter stated that the proposed definition has implications in all areas currently impacted by synthetic biology technology, such as industrial enzymes, renewable chemicals for pharmaceutical and industrial applications, bio-based products, personal care products, renewable specialty chemicals, biofuels, and healthcare products. The commenter argued that consequences of adopting the proposed definition could impede the growth of sustainable products from emerging fields such as synthetic biology technology. The commenter therefore recommended that we not adopt the new definition of *recombinant and synthetic nucleic acids* as stated in the proposed rule, arguing that the existing language of the regulation is sufficient to cover the current uses of synthetic nucleic acids. The commenter further stated that the proposed definition utilizes language that was proposed to, but rejected by, the National Institutes of Health Recombinant DNA Advisory Committee (NIH–RAC). The commenter suggested that if the select agent program finds it necessary to introduce a new definition for *recombinant and synthetic nucleic acids,* that we follow the leadership of the NIH–RAC and establish a simpler definition that is not focused on the underlying mechanism of production of the nucleic acids.

We disagree with the commenter's assertion regarding the broad impact of the definitions used by the select agent program. Our scope of oversight is limited to the list of select agents and toxins and therefore does not extend to all synthetic biology. However, we do agree that any definition adopted for use in the regulations should be based on the most current information available from subject matter experts. Following extensive consultation with the NIH, we have updated the definition of *recombinant and synthetic nucleic acids* to reflect the most current thinking on the subject. In addition, we have separated the definition of *recombinant nucleic acids* from the definition of *synthetic nucleic acids* for purposes of clarity.

We proposed to add a definition for *occupational exposure* to the VS regulations in 9 CFR 121.1 as it is used in the regulations but not defined. This definition was based on that used in the Occupational Safety and Health Administration regulations in 29 CFR 1910.1030. We did not propose to add a corresponding definition to the PPQ regulations in 7 CFR 331.1 since PPQ select agents and toxins do not pose a severe threat to human health and, therefore, it is unnecessary to address personnel safety and health. One commenter suggested that we expand the definition to specify that, due to aerosol transmission, such exposure incidents may impact other employees working in the same area.

We agree with the commenter that the proposed definition did not adequately address the possibility of aerosol transmission and have amended the language accordingly.

Additionally, we are also removing references to rickettsiae in the definitions for *biological agent* and *toxin.* This change is necessary because there are no rickettsiae select agents or toxins regulated by APHIS on the list of select agents and toxins.

We proposed to amend 7 CFR 331.3(e), 9 CFR 121.3(e) and 9 CFR 121.4(e). These paragraphs specify that attenuated strains of select agents or toxins may be excluded from the requirements of the select agent regulations subject to an official request and supporting scientific information. We proposed to state that the "inactive form of a select toxin" may be excluded from regulation under each respective part subject to the application procedure. We also proposed to update the Web site address in paragraph (e)(1) of each section as all information concerning the Select Agent Program is now centralized on the National Select Agent Registry at *http://www.selectagents.gov/.* Finally, we proposed to remove the language stating that exclusions will be published in the **Federal Register**. At the time the regulations were initially created we anticipated publication of exclusions both in the **Federal Register** and on the Internet; however, we have found that publication on the National Select Agent Registry Web site only has served to provide the most up-to-date information to the regulated community.

One commenter suggested that, in addition to publication of exclusions on the National Select Agent Registry Web site we should also develop and maintain an email distribution list so that registered facilities could be notified when updates are added to the Web site.

We currently engage in the type of email updates that the commenter suggests. Emails are sent to responsible officials and alternate responsible officials at all registered entities. Dissemination of that information is at the discretion of the responsible officials and alternate responsible officials. We plan on issuing guidance and suggestions regarding information dissemination, which we believe will enable further information sharing within regulated entities.

Another commenter asked that we add a timeline to the regulations indicating when the person requesting the exclusion should expect to receive a written response. The commenter stated that, in the case of grant applications, it may be difficult to meet deadlines if the applicant has no idea how long a response from the select agent program will take.

We are making no changes as a result of this comment. Due to the wide variety of material submitted for consideration for exclusions, establishment of a timeline as the commenter recommends is impractical. The select agent program necessarily examines each application on a case-by-case basis. We strive to make the process as efficient as possible.

The regulations in 9 CFR 121.6 set out guidelines for those instances where overlap select agents and toxins may be considered exempt from the regulations. Specifically, § 121.6(e) concerns

procedures by which an individual or entity may be exempted from the requirements of the regulations if necessary in order to respond to a domestic or foreign agricultural emergency involving an overlap select agent or toxin. Upon further consideration, in order to eliminate an unnecessary burden on such an individual or entity, we have removed the provision stating that the individual or entity must complete APHIS/CDC Form 5 in order to request such an exemption. Guidance on requesting an exemption for an individual or entity in the case of a domestic or foreign agricultural emergency involving an overlap select agent or toxin may be found on the National Select Agent Registry at www.selectagents.gov.

The regulations in 7 CFR 331.9 and 9 CFR 121.9 set out requirements for entities requesting to work with select agents and toxins to designate a responsible official, who ensures that the entity continues to meet the requirements of the regulations. We proposed to explicitly require that all designated responsible officials possess the appropriate training or expertise to execute their required duties. We also proposed to clarify the role of alternate responsible official in order to definitively establish that the alternate responsible official must have the knowledge and authority to act for the responsible official in his/her absence. Finally, we proposed to add a requirement that the responsible official's principal duty station be the physical location of the registered entity.

One commenter stated that the language concerning responsible officials is not clear and may cause institutions to unnecessarily create new administrative structures and positions to meet this requirement. The commenter urged the select agent program to work with research institutions in order to identify the most appropriate level of administration for the responsible official.

We are making no change in response to this comment. The responsible official should be an individual who can perform all of the duties required for that position. The regulations were designed to place the responsibility for ensuring entity compliance with the regulations in one position. Given the wide variety of entities covered by the regulations, establishing more prescriptive guidelines would decrease the flexibility and usefulness of the regulations to those entities. We neither require nor prohibit the establishment of a separate administrative position for the responsible official as we leave it to the entity to decide how best to designate a responsible official who meets the requirements of the regulations.

Another commenter said that the absence of specific requirements regarding responsible official qualifications will establish an inspection process that is subjective and ineffectual. The commenter asked that we add a section that explains and/or defines what we consider the "appropriate training or expertise" necessary for an entity's responsible official.

We have established the regulations regarding the training and expertise of the responsible official in order that they provide maximum flexibility to regulated entities. The reasons for this are twofold: First, given the quickly developing and changing fields of biosafety and biosecurity, any attempt on our part to strictly define required training and expertise within the regulations would likely become obsolete as the parameters continue to evolve; second, given the wide variety of entities covered by the regulations, there is a need to maintain flexibility so that they may remain applicable to all of those entities. We have removed the reference to "appropriate training or expertise" and will continue to assess the performance of the responsible official based on his or her efficacy in implementing the regulatory requirements at his or her entity. With an eye to the non-specificity of the regulations, we have developed guidance documents regarding this and other aspects of entity compliance. They are available on the National Select Agent Registry at *www.selectagents.gov.*

Five commenters requested further clarification regarding the proposed requirement that the responsible official's principal duty station be the physical location of the registered entity. The commenters inquired whether this requirement would mean that the principal duty station should be in the same building or only at the same institution.

In response to these comments and others received by the CDC, we are modifying the language in 7 CFR 331.9 and 9 CFR 121.9 to stipulate that the responsible official must have a physical (as opposed to a telephonic or audio-visual link) presence at the registered entity to ensure that the entity is in compliance with the regulations. The responsible official will also be more quickly able to respond to any on-site incidents involving select agents and toxins if he or she is on-site.

Three commenters asked that the definition of "entity" be clarified in relation to the requirement that the responsible official's principal duty station be the physical location of the registered entity and the impact of the requirement assessed. The commenters' request was based on their understanding that an entity has to be contiguous and that laboratories separated on a campus constitute separate entities. The commenters concluded that having separate responsible officials in this case would be burdensome.

We realize that many entities are located on a campus with several registered laboratories in different buildings. The intent of this requirement is not to ensure that a responsible official is assigned to each physical laboratory but to ensure that the responsible official is physically located on the campus.

We proposed to amend the regulations in 7 CFR 331.10 and 9 CFR 121.10. These regulations establish parameters for restricting access to select agents and toxins and the process by which individuals may be approved for access to select agents and toxins after the completion of a security risk assessment by the Attorney General. Specifically, we proposed to add new provisions by which individuals may have access to select agents at entities other than the individual's "home" entity. We also proposed to decrease the maximum length of time for which a security risk assessment will be valid from 5 years to 3 years in order to more expeditiously identify individuals who may have fallen into one of the prohibited or restricted categories.

One commenter asked whether, during the time period in which an individual has access to select agents at entities other than the individual's "home" entity, that individual would have access to select agents at both facilities, or if the access approval would be transferred so that the individual would only have access to the select agents and toxins at the new entity for the time specified. The commenter stated that, from a biosafety and biosecurity perspective, limiting access to only one entity at the time would be appropriate.

During this timeframe, the individual will maintain access to select agents at both facilities. We believe that such an arrangement will serve to facilitate collaboration between registered entities as well as enabling various entities to use their time and funds most efficiently in order to continue ongoing research. We do not agree with the commenter's assertion that this procedure would threaten biosecurity or biosafety in any way since all registered entities are

required to undergo the same security screening process as established by the regulations.

Two commenters stated that decreasing the maximum length of time for which a security risk assessment will be valid from 5 years to 3 years would represent an undue burden on registered entities. One commenter cited the generally low rate of turnover at these entities, while the other stated that the existing policy, with renewal every 5 years, has proven to be both sufficient and cost effective since the establishment of the select agent regulations. The first commenter suggested that we allow for less frequent risk assessments in the case of those individuals working with non-Tier 1 select agents and toxins only. The second commenter recommended making no changes to the 5-year interval.

The decision to begin processing security risk assessments at 3-year rather than 5-year intervals was made as a result of the recommendations from a working group comprised, in part, of representatives from the DOD and the HHS as well as various subject matter experts. Based on input from the working group as well as the FBI, we have determined that conducting security risk assessment approvals every 3 years is an effective method for increasing the security of our entities. Furthermore, the select agent program has been processing security risk assessments on a 3-year basis since June 1, 2011. Since that date, we have not received any comments from the regulated community regarding additional financial or administrative burden associated with the changed practice. Regarding the first commenter's suggestion to process security risk assessments differently for those individuals working with non-Tier 1 select agents and toxins only, the establishment of the Tier 1 category is in no way intended to imply that the non-Tier 1 agents pose a lesser risk to public health and safety than they have previously. In accordance with that fact, we have not decreased the handling and security requirements for those non-Tier 1 agents.

We proposed to require that the security plan described in 7 CFR 331.11 and 9 CFR 121.11 that must be developed by all registered entities be submitted for initial registration, renewals of registration, and at any other time upon request to replace the existing requirement that they be provided upon request only. We also proposed that the security plan contain provisions for the control of access to select agents and toxins, including the safeguarding of animals or plants intentionally or accidentally exposed to or infected with a select agent, against unauthorized access, theft, loss or release. We also proposed to add a requirement that the security plan include procedures that require the responsible official to immediately notify the FBI in order to initiate a threat assessment process in the event that he or she becomes aware of suspicious activity which is criminal in nature, related to the facility, its personnel, or select agents. We also proposed to add provisions for information security, including the need for backup measures if the entity relies on information systems for security. We also proposed to codify current practices for shipping, receiving, and storage of select agents and toxins to ensure that the entity has documented processes for securing and monitoring the shipment, receipt, and storage of these items. Finally, we proposed to amend paragraph (e) in 7 CFR 331.11 and 9 CFR 121.11, which previously directed individuals creating a security plan to guidance for developing such documents contained in the "Morbidity and Mortality Weekly Report" from December 2002. We proposed that applicants would instead be directed to the "Security Information Document" and the "Security Plan Template" on the National Select Agent Registry Web site.

Two commenters requested clarification concerning the proposed requirement that entities address procedures concerning animals or plants accidentally or intentionally exposed to or infected with a select agent. Specifically, the commenters requested clarification as to whether the requirement would be limited to experimental plants and animals that are possessed and controlled by the registered entity. One commenter suggested two additions to the requirements: One stipulating that the incident response plan only cover those animals or plants possessed and controlled by the entity and the second a certifying statement confirming that the State animal health official (or plant-associated equivalent) has an incident response plan in place to address intentional or accidental exposure to select agents for animals or plants throughout the State, including those plants or animals that are not possessed or controlled by the entity but may be located on the premises (e.g., wild animals).

We are making no changes based on these comments. It was always our intent that the entity's incident response plan be limited to those exposed plants and animals that are possessed by and controlled by the registered entity.

One commenter suggested that we alter the wording from a requirement to safeguard animals or plants "intentionally or accidentally exposed to or infected with a select agent" to a requirement to safeguard animals or plants "intentionally exposed to, or infected with, select agents." The commenter stated that the suggested language would be clearer.

We are making no changes based on this comment. We believe that animals or plants accidentally exposed to or infected with a select agent should be handled as select agents and safeguarded in the same manner as an animal or plant intentionally exposed to a select agent.

In the preamble to the proposed rule, we stated that we were not proposing to require the security plan to address animals and plants exposed to select toxins. This is because recovering the toxin from within an animal or plant subject is highly difficult and such removal does not produce a reasonable yield of recovery. In addition, there is uncertainty as to whether or not the toxin would remain active when recovered from the animal or plant. For these reasons it is highly unlikely that once introduced into an animal or plant, a sufficient amount of toxin could be recovered to pose a significant hazard to public health, agriculture, or agriculture products. One commenter questioned that rationale, stating that while toxins are unlikely to be amplified or move into multiple hosts outside a given facility, there is still concern that amplification of toxins could occur in animals or insects during the course of an experiment.

We disagree with the commenter's assertion. Select toxins do not amplify the way select agents do. Toxins in an animal or insect would prove deadly to that organism before it could reach a level at which extraction would become possible.

One commenter stated that our proposal to add a requirement that the security plan include procedures for the responsible official to notify the FBI of suspicious activity that may be criminal in nature and related to the entity, its personnel, or its select agents or toxins contradicts guidance contained in the Nationwide Suspicious Activity Reporting (SAR) Initiative (NSI) established by the Department of Justice, creates a conflict within those entities that have their own recognized law enforcement agencies, and unnecessarily adds confusion due to the potential for concurrent jurisdiction. Two other commenters questioned the

rationale for requiring FBI reporting given that the select agent program is jointly administered by APHIS and CDC and, in the past, security concerns were directed to those agencies.

We do not believe that there exists any conflict between the security requirements in 7 CFR 331.11 and 9 CFR 121.11 and the guidance offered by the NSI. The intent of this requirement is to facilitate the involvement of antiterrorism resources which will increase the security of select agents and toxins. FBI field offices, which are centrally located in major metropolitan areas across the United States, can assist entities by working closely with them on crime threats. However, we agree with the commenters that it may be appropriate that notification of suspicious activity first be given to local law enforcement. We have therefore changed the language in 7 CFR 331.11(c)(8) and 9 CFR 121.11(c)(8) to read: "Describe procedures for how the Responsible Official will be informed of suspicious activity that may be criminal in nature and related to the entity, its personnel, or its select agents or toxins; and describe procedures for how the entity will notify the appropriate Federal, State, or local law enforcement agencies of such activity."

Another commenter suggested that we require FBI notification for any suspicious activity involving select agents or toxins and not just activity that may be criminal in nature. The commenter argued that it is more appropriate for the FBI to determine whether or not the activity in question is criminal in nature.

We are making no changes in response to this comment. The intent of this section of the regulations is to avoid excessive reporting to the FBI. It is our belief that a reasonable person would be able to determine if the behavior in question constitutes a potential criminal act, which would therefore necessitate FBI reporting.

One commenter requested that we provide further details concerning the proposed requirements for additions to the security plan, specifically as it relates to information security.

The purpose of the requirement in question is to clarify the language in 7 CFR 331.11(c)(9)(i) and 9 CFR 121.11(c)(9)(i) of the regulations that requires the entity to have procedures in place for information systems control. This is an overarching requirement that covers electronic and non-electronic information oversight by the regulated community. Our intent is not to regulate experimental data or the results of studies involving select agents and toxins but to regulate the select agents and toxins themselves. Therefore, we have revised the language in order to clearly indicate that the information security provisions in question should only be for access to the entity's registered space and records pertaining to select agents and toxins, as identified in sections 7 CFR 331.11, 9 CFR 121.11, 7 CFR 331.17, and 9 CFR 121.17.

Another commenter stated that the information security requirement represents an added regulatory burden, and the impact of this requirement should be evaluated.

For the most part, we anticipate that these requirements are already being met and will merely require entities to codify and document the systems and processes currently in place. The guidance documents developed in conjunction with this rule are, in part, a response to the questions and issues raised by the commenter. Issues addressed in this document include, but are not limited to: Information technology security, network security, computer security, peripheral devices and data storage, physical security and its application to information security, risk management, and training. Full guidance on information security may be found on the National Select Agent Registry at *www.selectagents.gov*.

Another commenter said that the proposed requirement that authorized and authenticated users only be granted access to select agent and toxin related information, files, equipment (e.g., servers or mass storage devices), and applications as necessary to fulfill their roles and responsibilities, and that their access be modified when the user's roles and responsibilities change or when their access to select agents and toxins is suspended or revoked, would require registration and security risk assessments for all staff managing records pertaining to select agent work. The commenter argued that this requirement would increase the burden on manufacturers and institutions who utilize administrative or information technology staff for such document management.

The security requirements referenced by the commenter refer only to those persons who have either physical access to select agents and toxins or who have the capability to alter security access to select agents and toxins. Guidelines concerning security requirements such as these may be found on the National Select Agent Registry at *www.selectagents.gov*.

Another commenter stated that the meaning of the phrases "network connectivity monitoring" and "backup security measures in the event that access control systems and/or surveillance devices are rendered inoperable" should be clarified.

Again, we note that, further details regarding these and other aspects of the information security requirements may be found in the guidance documents mentioned above, which may be found on the National Select Agent Registry at *www.selectagents.gov*.

We proposed to require that an entity's security plan contain provisions and policies for shipping, receiving, and storage of select agents and toxins, including documented procedures for receiving, monitoring, and shipping of all select agents and toxins. These provisions would provide that an entity must properly secure containers on site and have a written contingency plan for unexpected shipments. One commenter requested clarification regarding the meaning of the term "unexpected shipments."

We believe that the term "unexpected shipments" is self-explanatory and believe that the security plan should contain procedures for these handling unexpected shipments (e.g., when an entity receives a shipment of a select agent that it had neither requested nor coordinated for, and therefore was not expecting).

The regulations in 7 CFR 331.13 and 9 CFR 121.13 concern restricted experiments, which are those experiments that may not be performed by regulated entities without the approval of the Administrator. In addition to the existing prohibition on conducting restricted experiments, we proposed to state that entities would not be authorized to possess the products of restricted experiments without the approval of the Administrator.

We also proposed to expand the restricted experiment approval requirement to include all experiments involving the creation of drug resistant select agents that are not known to acquire that resistance naturally, if such acquisition could compromise the use of the drug to control disease agents in humans, veterinary medicine, or agriculture, regardless of the method or technology used to create the resistance. Previously, the restricted experiment language concerned only those experiments involving recombinant DNA. We proposed this change because, while the introduction of a drug resistance trait would normally eliminate that drug as a therapeutic option to control the disease, there may be alternative drugs available to control the disease.

In addition, we are adding a reference to "chemical resistance traits," to the PPQ regulations in 7 CFR 331.13 in order to capture the potential transfer of,

or selection for, such traits that could adversely affect plant and agricultural health. Chemical resistant traits include, but are not limited to herbicide resistance, fungicide resistance, and pesticide resistance. We did not propose to add a corresponding definition to the VS regulations in 9 CFR 121.13 since chemical resistance traits are exclusive to plant biology. It should be noted that restricted experiments are not prohibited experiments; an entity must seek permission prior to the initiation of a restricted experiment and receive approval from the Administrator or HHS Secretary. Approval for the performance of a restricted experiment or the possession of a product of a restricted experiment may involve meeting additional safety and/or security requirements as prescribed by the select agent program. Many experiments that involve the deliberate transfer of a drug resistant trait do not meet the definition of a restricted experiment because the drug is not used to control disease in humans, veterinary medicine, or agriculture. The select agent program encourages anyone who intends to conduct a select agent experiment utilizing drug resistance markers to submit that experiment for review so that they may be advised regarding whether the experiment would be considered a restricted experiment and therefore require approval prior to its initiation.

Two commenters were concerned about the proposed revisions classifying those experiments that introduce drug resistance to a select agent as restricted. The commenters suggested aligning the language concerning restricted experiments with the recombinant DNA guidelines issued by the NIH, which restrict and require approval only for those experiments with pathogens involving drug resistance for therapeutically useful agents against that pathogen. The commenters stated that the proposed language was too broad.

We made no changes as a result of these comments. Contrary to the commenters' assertion, we have not expanded the definition of a restricted experiment to include all experiments utilizing select agents or toxins with drug resistant traits, but only to those utilizing select agents or toxins with resistance to those drugs used to control disease in humans, veterinary medicine, or agriculture. The definition of a restricted experiment contained in the regulations is already aligned with the NIH recombinant DNA guidelines.

One commenter argued that antibiotic resistance not previously present could emerge in one or more select agents at any time. The commenter wished to know if the possession of such a previously unknown antibiotic resistant select agent would mean that all such organisms would be required to be destroyed. The commenter expressed concern that such a requirement might inadvertently prevent research in the case of a select agent that suddenly developed new antibiotic resistance traits.

We are making no changes to the regulations as a result of this comment. Regardless of whether the select agent develops a new trait, it is still considered and treated as a select agent from a biosafety or biocontainment perspective. The aspect of the process that makes a select agent the subject of a restricted experiment is the purposeful generation of antibiotic resistant properties. If a select agent developed new antibiotic resistance spontaneously, then it would be included in the category of select agents considered "known to acquire the resistance naturally" as specified in 7 CFR 331.13(a)(1) and 9 CFR 121.13(b)(1).

Another commenter wanted to know whether the use of the terms "the select agent program" and "the Administrator," which refer to two different entities, indicates that restricted experiments would require the approval of both the select agent program and the Administrator.

Terms in this context are interchangeable, as the APHIS Administrator has delegated authority for establishing and enforcing the regulations to the select agent program. Approval is therefore only needed from the select agent program.

Another commenter stated that an ombudsman, in the form of additional working groups, should be included in the approval process for restricted experiments. The commenter said that involvement of such groups in this capacity would serve to engage those regulated scientists while furthering their understanding of the select agent program.

We are making no changes as a result of this comment. In reviewing applications to conduct restricted experiments, the select agent program utilizes the expertise of the Intragovernmental Select Agents and Toxins Technical Advisory Committee (ISATTAC), which is composed of Federal scientists from the CDC, NIH, FDA, APHIS, the Agricultural Research Service (ARS), APHIS' Center for Veterinary Biologics (CVB), and DOD, and its USDA counterpart, the Agricultural ISATTAC, which is composed of Federal scientists from ARS, APHIS, and CVB. In the past, when appropriate, we have engaged the advice of subject matter experts from outside the government.

The regulations in 7 CFR 331.14 and 9 CFR 121.14 concern development of an entity's incident response plan. We proposed to specify that each incident response plan be based upon a site-specific risk assessment. We also proposed that the incident response procedures contain stipulations concerning animals and plants accidentally or intentionally exposed to or infected with a select agent.

One commenter argued that the requirements in 7 CFR 331.14(a) and 9 CFR 121.14(a), which stipulate that regulated entities must develop and implement a written incident response plan based on a site-specific risk assessment, are misleading. The commenter stated that, since there is no standard methodology for conducting such risk assessments, the addition of specific issues that must be addressed by a risk assessment should be included in order to provide additional guidance for the regulated community. The commenter further observed that, in general, the risk assessment requirements for agricultural select agents and toxins are somewhat different from those for human select agents and toxins. The commenter concluded that a one size fits all approach may be overly burdensome or scientifically inaccurate.

We are making no changes based on this comment. The site-specific risk assessments required by the regulations in 7 CFR 331.14(a) and 9 CFR 121.14(a) are necessary in order to ensure the physical security of regulated entities. The risks cited by the commenter are matters of the biological risk presented by various select agents and toxins, which is a separate issue from the physical security of these select agents and toxins. The regulations are intended to prevent the theft, loss, or release of select agents and toxins. We also disagree with the commenter's assertion that there is no standard methodology for conducting site-specific risk assessments. We have developed guidance on this subject that may be found on the National Select Agent Registry at *www.selectagents.gov*.

We proposed to amend the regulations in 7 CFR 331.15 and 9 CFR 121.15, which concern provision of mandatory training for staff and visitors who work in or visit areas where select agents or toxins are handled or stored. We proposed to require all registered entities to provide security awareness and incident response training. We also proposed to establish that training for escorted personnel would be based on

the risk associated with accessing areas where select agents and toxins are used and/or stored. We further proposed to require that refresher training, currently required on an annual basis, also be provided if a registered entity's security, incident response, biosafety, or biocontainment plans are substantively altered. Finally, we proposed to specify that the responsible official ensure maintenance of training records. Currently there is no particular person designated as the entity's required recordkeeper, only that a training record must be kept.

One commenter suggested that 7 CFR 331.15(a) should specify that information and training on both biocontainment and biosafety be provided, as only information and training on biosafety had been specified in the proposed rule.

We agree with the commenter and have amended 7 CFR 331.15(a) in order to reflect the proper terminology in dealing with plant pathogens.

We proposed that the regulations in 7 CFR 331.15(a)(ii) concerning escorted personnel stipulate that training for such individuals must be based on the risk associated with accessing areas where select agents and toxins are used and/or stored. One commenter inquired what would represent an "appropriate level of training." The commenter further wished to know how an entity would determine the risk associated with accessing such areas. Finally, the commenter asserted that there should be no need for non-approved individuals to potentially access areas where select agents and toxins are used and/or stored given that unsecured select agents or toxins could be moved elsewhere prior to the arrival of any escorted personnel.

We disagree with the commenter's assertion that non-approved individuals would never need to access areas where select agents and toxins are used and/or stored. For example, there may be a need for the repair of a refrigeration unit in a laboratory where employees are utilizing select agents or toxins as a part of concurrent research work. In addition, inventories of select agents and toxins may be large enough to make moving them impractical and overly time-consuming. It is therefore necessary for any visitors to know and understand the biological risks associated with the select agents or toxins used and/or stored in the area to which they will have access. This training would necessarily vary depending upon the areas that the escorted personnel would need to access, which would be determined by the entity. Visitors should ideally be made aware of the safety and security procedures as defined by the entity in question; however, we are leaving the regulations in their broadly written state in order to provide the greatest amount of flexibility for the wide variety of entities subject to the requirements.

We proposed to amend the regulations in 7 CFR 331.16 and 9 CFR 121.16, which concern the transfer of select agents and toxins from one registered entity to another, in order to codify practices for shipping, receiving, and storage of select agents and toxins to ensure that all registered entities have documented processes for securing and monitoring the shipment, receipt, and storage of select agents and toxins that make it extremely unlikely that such materials would be made available to an unauthorized individual.

Two commenters asserted that the provisions concerning transfer are unclear with regard to the subject of the transfer of materials covered by the exemptions for diagnostic or clinical laboratories under 7 CFR 331.5, 9 CFR 121.5, and 9 CFR 121.6. The commenters requested that we clearly establish whether the new requirements supersede the existing provisions for transfer by exempt entities.

We are making no changes as a result of this comment. Those materials which qualify for exemption from the regulations have always been considered separately from the rest of the listed select agents or toxins. This may be a result of the exemptions granted for diagnostic or clinical laboratories, a result of a specific exemption request, or for other reasons which may be found in 7 CFR 331.5, 9 CFR 121.5, and 9 CFR 121.6. As a result, these materials are not subject to the regulations, including those portions of the regulations concerning transfers, apart from those sections pertaining to exemptions.

However, given that some commenters on the CDC proposed rule expressed confusion associated with the proposed provision, we have revised the language in order to clarify our original intent. Packaging of select agents and toxins for transfer must be made by an APHIS or CDC-approved individual.

The regulations in 7 CFR 331.17 and 9 CFR 121.17 concern required recordkeeping procedures for regulated entities as those records relate to select agents and toxins. We proposed to add language to address synthetic select agent organisms and animals and plants inoculated with select agents. We also proposed to add recordkeeping requirements whereby regulated entities maintain an accurate, current inventory of any animals or plants intentionally or accidentally exposed to or infected with a select agent (including number and species, location, and appropriate disposition). As previously stated, we did not propose to require regulated entities to keep records regarding animals or plants exposed to select toxins.

Four commenters argued that counting individual vials of replicating biological agents is costly, burdensome, and a major source of frustration for investigators. The commenters went on to say that the requirement to measure volumes within each vial is problematic given both the ease with which volumes can change through natural processes and the difficulty in correctly assessing them in the frozen state during inventory verifications. The commenters stated that both counting vials and measuring volumes of individual vials are not effective means of increasing security.

We are making no changes to the regulations based on these comments. While we are aware of the burden resulting from the requirement to maintain an accurate and current inventory of each select agent and toxin held in long-term storage, we believe this is an essential element in establishing the security of select agents or toxins. We recognize that it may still be possible for an insider to steal a sample of an agent either from working stock or from an inventory without being detected; however, if an entity has a robust inventory management system, such incidents have a better chance of being detected. To assist registered entities in meeting the requirements for maintaining accurate inventories of materials in long term storage, we have developed guidance that may be found on the National Select Agent Registry at *www.selectagents.gov.* It should be noted that, while the volume measurements the commenter references are required for inventories of select toxins, they are not required in the case of inventory of select agents held in long-term storage due, in part, to the points raised by the commenter. However, we disagree with the commenter's assessment that measuring volume in the case of select toxins and counting vials in general as part of required inventory tracking of both select agents and toxins for registered entities is not necessary.

Another commenter stated that there is concern that the additional requirements for inventory each time a select agent is moved will adversely impact the viability and quality of the material in question.

We are making no changes as a result of this comment. In the case of those select agents and toxins in long-term

storage, collections of vials of materials can be recorded and grouped into tamper-evident containers and audits made of intact containers rather than audits of individual vials. This practice is stipulated in the current guidance document regarding long term storage, which is available on the National Select Agent Registry at *www.selectagents.gov*. Those select agents and toxins that are part of an entity's working stock are already in regular use and we therefore do not anticipate adverse effects arising from any required accounting.

Based on comments received on the CDC rule, we now recognize that there has been some confusion between those animals (including arthropods) and plants considered to be "working stock" and those considered to be "inventory." To that end, we have developed guidance that will enable entities to better differentiate between these two categories. This guidance is available at *www.selectagents.gov*. It was not our intent to require a formal inventory of animals or plants intentionally or accidentally exposed to or infected with a select agent, but merely to state that entities should keep some record of such animals or plants. In order to clarify our intent regarding "working stock" and "inventory," we are revising 7 CFR 331.17(a)(2) and 9 CFR 121.17(a)(2) to require an accurate, current accounting of any animals or plants intentionally or accidentally exposed to or infected with a select agent (including number and species, location, and appropriate disposition) instead of an accurate, current inventory of those animals or plants.

Indirect and Economic Consequences

Eight commenters requested that we consider the indirect consequences of continuing to include agents and toxins on the select agent list, the negative effect of the proposed rule changes on the potential workforce for select agent research, and the possibility that additional regulations concerning Tier 1 agents and toxins will mandate more Federal oversight and institutional compliance requirements, resulting in increased costs to taxpayers both directly and indirectly through reduced research efficiency. Commenters requested that the full economic and scientific impact of these added requirements be carefully assessed prior to implementation, especially the increased costs to academic institutions with no associated funding, and the increased burden on investigators already having difficulty finding time for research and experimentation. The commenters also stated that the timeline for implementation of the new requirements should be considered and disclosed to affected entities.

A cornerstone of the select agent program is to establish and enforce safety and security measures to prevent access to select agents and toxins for use in domestic or international terrorism or for any other criminal purpose. An equally important function of the select agent program is to ensure the appropriate availability of biological agents and toxins for research, education, and other legitimate purposes. To achieve both requires balancing the need for continuing biological research with requiring a level of safety and security commensurate with the risks posed by these select agents and toxins. We understand that safety and security requirements cost money and that money in the area of biological research is often a scarce commodity. We are, however, also aware that a lack of adequate safety and security requirements could result in damages measured not only in dollars but in human lives. It is our determination, based on the information available to us, that the additional requirements would, in many cases, codify systems and procedures already in use by a majority of regulated entities.

We are also renumbering several sections of the PPQ regulations so that they will match the numbering of the VS regulations, which we believe may be useful for those entities housing both PPQ select agents and toxins and VS select agents and toxins. As proposed, the section numbering did not match up because we did not propose to classify any PPQ select agents and toxins as Tier 1, so there were sections being added to the VS regulations that were not included in the PPQ regulations.

Effective Date

In response to comments received by the CDC requesting guidance and a timetable of when the proposed changes would need to be addressed, we have included a phase-in period for the effective date for certain requirements of the revised regulations, which should allow entities to comply without causing disruption or termination of research or educational projects. As noted in the "Dates" portion of this document, 60 days from the publication of the final rule, entities will be required to be in compliance with 7 CFR 331.1 through 331.10, 331.13, and 331.16 through 331.20 and 9 CFR 121.1 through 121.10, 121.13, 121.16, 121.17, and 121.20. One hundred and eighty days after the publication of the final rule, entities will be required to be in compliance with 7 CFR 331.11, 331.12, 331.14, and 331.15 and 9 CFR 121.11, 121.12, 121.13, 121.14, and 121.15.

The staggered effective dates for the provisions of the final rule are based on the effective dates previously used for a final rule published by the Select Agent Program on March 18, 2005 (70 FR 13242–13292, Docket No. 02–088–4). If the regulated community has concerns about the established timeline, they can contact the Federal select agent program for technical assistance.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document.

Executive Orders 12866 and 13563 and Regulatory Flexibility Act

This final rule has been determined to be significant/economically significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

We have prepared an economic analysis for this rule. The economic analysis provides a cost-benefit analysis, as required by Executive Orders 12866 and 13563, which 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, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The economic analysis also provides a final regulatory flexibility analysis that examines the potential economic effects of this rule on small entities, as required by the Regulatory Flexibility Act. The economic analysis is summarized below. Copies of the full analysis are available on the Regulations.gov Web site (see footnote 1 in this document for a link to Regulations.gov) or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Based on information obtained through site-specific inspections, we believe most registered entities already have in place many of the information security requirements set forth in the final rule, and compliance costs of the rules are therefore expected to be minimal. Entities more likely to be affected will be laboratories and other institutions conducting research and related activities that involve the use of select agents and toxins categorized as Tier 1. These entities will be required to conduct a pre-access suitability

assessment of individuals with access to a Tier 1 select agent or toxin, as well as enroll these individuals in an occupational health program.

The rule would reduce the period that FBI background checks are valid from five to three years. This increased frequency would effectively increase the cost of background checks by 67 percent. Based on the current number of individuals required to have the background checks, we estimate that the present value of these government-borne costs over five years will increase by $1.96 million across all registered entities. The annual increase in costs will total about $432,000.

While we expect few if any of the registered entities to incur significant compliance costs, required documentation of measures already regularly performed with respect to biocontainment/biosafety, incident response, information security, and ongoing suitability assessment may require additional time of personnel. We estimate additional recurring costs related to information security, such as for software updates, could total about $2 million per year, or about $5,500 per entity, in the unlikely event that none of the entities already uses equivalent information security measures. As noted, many of these costs are already currently borne by entities in their conduct of generally recognized best practices.

For entities possessing a Tier 1 agent or toxin, the costs of pre-access suitability assessments and occupational health programs are estimated to total between $2.8 million and $4.4 million, or between about $9,600 and $15,100 per entity, on average. Again, actual costs incurred are unlikely to reach these maximum cost ranges; we expect that many of the entities with a Tier 1 agent or toxin already conduct assessments and have health programs similar or equivalent to those required by the final rules.

The benefits of strengthened safeguards against the unintentional or deliberate release of a select agent or toxin greatly exceed compliance costs of the rules. As an example of losses that can occur, the October 2001 anthrax attacks caused 5 fatalities and 17 illnesses, disrupted business and government activities (including $2 billion in lost revenues for the Postal Service), and required more than $23 million to decontaminate one Senate office building and $3 billion to decontaminate postal facilities and procure mail-sanitizing equipment. Deliberate introduction greatly increases the probability of a select agent becoming established and causing wide-ranging and devastating impacts to the economy, other disruptions to society, and diminished confidence in public and private institutions.

The amended regulations will enhance the protection of human, animal, and plant health and safety. The final rules will reduce likelihood of the accidental or intentional release of a select agent or toxin. Benefits of the rules will derive from the greater probability that a release will be prevented from occurring. While the total cost of implementing the regulations is estimated to range between $2.8 million–$4.4 million across all entities with a Tier 1 agent or toxin and approximately $2.4 million in annual cost across all registered entities and the Federal Government, we believe many of these costs are currently incurred by affected entities as generally recognized practices.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Executive Order 13175

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

Paperwork Reduction Act

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

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

List of Subjects

7 CFR Part 331

Agricultural research, Laboratories, Plant diseases and pests, Reporting and recordkeeping requirements.

9 CFR Part 121

Agricultural research, Animal diseases, Laboratories, Medical research, Reporting and recordkeeping requirements.

Accordingly, we are amending 7 CFR part 331 and 9 CFR part 121 as follows:

Title 7

PART 331—POSSESSION, USE, AND TRANSFER OF SELECT AGENTS AND TOXINS

■ 1. The authority citation for part 331 continues to read as follows:

Authority: 7 U.S.C. 8401; 7 CFR 2.22, 2.80, and 371.3.

■ 2. Section 331.1 is amended as follows:

■ a. In the introductory text of the definition of *biological agent*, by removing the word "rickettsiae,";

■ b. By adding, in alphabetical order, definitions of *information security*, *recombinant nucleic acids*, *security barrier*, and *synthetic nucleic acids; and*

■ c. In the introductory text of the definition of *toxin*, by removing the word "rickettsiae,".

The additions read as follows:

§ 331.1 Definitions.

* * * * *

Information security. Protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide:

(1) *Integrity,* which means guarding against improper information modification or destruction, and includes ensuring information authenticity;

(2) *Confidentiality,* which means preserving authorized restrictions on access and disclosure, including means

for protecting personal privacy and proprietary information; and

(3) *Availability,* which means ensuring timely and reliable access to and use of information.

* * * * *

Recombinant nucleic acids. (1) Molecules that are constructed by joining nucleic acid molecules and that can replicate in a living cell (i.e., recombinant nucleic acids); or

(2) Molecules that result from the replication of those described in paragraph (1) of this definition.

* * * * *

Security barrier. A physical structure that is designed to prevent entry by unauthorized persons, animals, or materials.

* * * * *

Synthetic nucleic acids. (1) Molecules that are chemically or by other means synthesized or amplified, including those that are chemically or otherwise modified but can base pair with naturally occurring nucleic acid molecules (i.e., synthetic nucleic acids); or

(2) Molecules that result from the replication of those described in paragraph (1) of this definition.

* * * * *

■ 3. Section 331.3 is amended as follows:

■ a. By revising paragraph (b);

■ b. In paragraph (c) introductory text, by adding the words "and/or synthetic" after the word "recombinant" each time it appears.

■ c. In paragraph (c)(2) introductory text, by adding the words "and/or synthetic" after the word "Recombinant".

■ d. By adding paragraph (d)(3); and

■ e. By revising paragraph (e)

The revisions and addition read as follows:.

§ 331.3 PPQ select agents and toxins.

* * * * *

(b) PPQ select agents and toxins: *Peronosclerospora philippinensis* (*Peronosclerospora sacchari*); *Phoma glycinicola* (formerly *Pyrenochaeta glycines*); *Ralstonia solanacearum*; *Rathayibacter toxicus*; *Sclerophthora rayssiae*; *Synchytrium endobioticum*; *Xanthomonas oryzae.*

* * * * *

(d) * * *

(3) Any subspecies of *Ralstonia solanacearum* except race 3, biovar 2 and all subspecies of *Sclerophthora rayssiae* except var. *zeae,* provided that the individual or entity can verify that the agent is within the exclusion category.

(e) An attenuated strain of a select agent or an inactive form of a select toxin may be excluded from the requirements of this part based upon a determination by the Administrator that the attenuated strain or inactivated toxin does not pose a severe threat to plant health or plant products.

(1) To apply for exclusion, an individual or entity must submit a written request and supporting scientific information. A written decision granting or denying the request will be issued. An exclusion will be effective upon notification to the applicant. Exclusions will be listed on the National Select Agent Registry Web site at *http://www.selectagents.gov/.*

(2) If an excluded attenuated strain or inactivated toxin is subjected to any manipulation that restores or enhances its virulence or toxic activity, the resulting select agent or toxin will be subject to the requirements of this part.

* * * * *

■ 4. Section 331.9 is amended as follows:

■ a. In paragraph (a)(4), by removing the word "and";

■ b. By redesignating paragraph (a)(5) as paragraph (a)(6);

■ c. By adding a new paragraph (a)(5);

■ d. By revising the first sentence of paragraph (b)

The addition and revision read as follows:.

§ 331.9 Responsible official.

(a) * * *

(5) Have a physical (and not merely a telephonic or audio/visual) presence at the registered entity to ensure that the entity is in compliance with the select agent regulations and be able to respond in a timely manner to onsite incidents involving select agents and toxins in accordance with the entity's incident response plan; and

* * * * *

(b) An entity may designate one or more individuals to serve as an alternate responsible official who acts for the responsible official in his/her absence.

* * *

* * * * *

■ 5. Section 331.10 is amended as follows:

■ a. By redesignating paragraphs (e) through (i) as paragraphs (f) through (j) respectively;

■ b. By adding a new paragraph (e); and

■ c. In newly redesignated paragraph (i), by removing the number "5" and adding the number "3" in its place.

The addition reads as follows:

§ 331.10 Restricting access to select agents and toxins; security risk assessments.

* * * * *

(e) A person with valid approval from the HHS Secretary or Administrator to have access to select agents or toxins may request, through his or her Responsible Official, that the HHS Secretary or Administrator provide their approved access status to another registered individual or entity for a specified period of time.

* * * * *

■ 6. Section 331.11 is amended as follows:

■ a. By revising paragraph (b);

■ b. By revising paragraph (c)(2);

■ c. In paragraph (c)(6), by removing the word "and";

■ d. In paragraph (c)(7), by removing the period and adding a semicolon in its place;

■ e. By adding new paragraphs (c)(8), (9), and (10);

■ f. By redesignating paragraphs (e) and (f) as paragraphs (g) and (h), respectively;

■ g. By adding new paragraphs (e) and reserved (f); and

■ h. By revising newly redesignated paragraph (g).

The revisions and additions read as follows:

§ 331.11 Security.

* * * * *

(b) The security plan must be designed according to a site-specific risk assessment and must provide graded protection in accordance with the risk of the select agent or toxin, given its intended use. A current security plan must be submitted for initial registration, renewal of registration, or when requested.

(c) * * *

(2) Contain provisions for the control of access to select agents and toxins, including the safeguarding of animals (including arthropods) or plants intentionally or accidentally exposed to or infected with a select agent, against unauthorized access, theft, loss or release.

* * * * *

(8) Describe procedures for how the Responsible Official will be informed of suspicious activity that may be criminal in nature and related to the entity, its personnel, or its select agents or toxins; and describe procedures for how the entity will notify the appropriate Federal, State, or local law enforcement agencies of such activity.

(9) Contain provisions for information security that:

(i) Ensure that all external connections to systems which manage security for the registered space are isolated or have controls that permit only authorized and authenticated users;

(ii) Ensure that authorized and authenticated users are only granted access to select agent and toxin related information, files, equipment (e.g., servers or mass storage devices), and applications as necessary to fulfill their roles and responsibilities, and that access is modified when the user's roles and responsibilities change or when their access to select agents and toxins is suspended or revoked;

(iii) Ensure that controls are in place that are designed to prevent malicious code (such as, but not limited to, computer viruses, worms, spyware) from compromising the confidentiality, integrity, or availability of information systems which manage access to spaces registered under this part or records as specified in § 331.17;

(iv) Establish a robust configuration management practice for information systems to include regular patching and updates made to operating systems and individual applications; and

(v) Establish procedures that provide backup security measures in the event that access control systems, surveillance devices, and/or systems that manage the requirements of § 331.17 are rendered inoperable.

(10) Contain provisions and policies for shipping, receiving, and storage of select agents and toxins, including documented procedures for receiving, monitoring, and shipping of all select agents and toxins. These provisions must provide that an entity will properly secure containers on site and have a written contingency plan for unexpected shipments.

* * * * *

(e) Entities must conduct complete inventory audits of all affected select agents and toxins in long-term storage when any of the following occur:

(1) Upon the physical relocation of a collection or inventory of select agents or toxins for those select agents or toxins in the collection or inventory;

(2) Upon the departure or arrival of a principal investigator for those select agents and toxins under the control of that principal investigator; or

(3) In the event of a theft or loss of a select agent or toxin, all select agents and toxins under the control of that principal investigator.

(f) [Reserved]

(g) In developing a security plan, an individual or entity should consider the documents entitled, "Security Guidance for Select Agent or Toxin Facilities." This document is available on the National Select Agent Registry at *http://www.selectagents.gov/*.

■ 7. Section 331.12 is amended as follows:

■ a. By revising paragraph (a);

■ b. By redesignating paragraph (d) as paragraph (e); and

■ c. By adding reserved paragraph (d).

The revision reads as follows:

§ 331.12 Biocontainment.

(a) An individual or entity required to register under this part must develop and implement a written biocontainment plan that is commensurate with the risk of the select agent or toxin, given its intended use.[4] The biocontainment plan must contain sufficient information and documentation to describe the containment procedures for the select agent or toxin, including any animals or plants intentionally or accidentally exposed to or infected with a select agent.

* * * * *

■ 8. Section 331.13 is amended by removing footnote 5 and revising paragraph (a) to read as follows:

§ 331.13 Restricted experiments.

(a) An individual or entity may not conduct, or possess products resulting from, the following experiments unless approved by and conducted in accordance with the conditions prescribed by the Administrator:

(1) Experiments that involve the deliberate transfer of, or selection for, a drug or chemical resistance trait to select agents that are not known to acquire the trait naturally, if such acquisition could compromise the control of disease agents in humans, veterinary medicine, or agriculture.

(2) Experiments involving the deliberate formation of synthetic or recombinant nucleic acids containing genes for the biosynthesis of select toxins lethal for vertebrates at an LD[50]<100 ng/kg body weight.

* * * * *

■ 9. Section 331.14 is amended as follows:

■ a. In the section heading, by redesignating footnote 6 as footnote 5;

■ b. By revising the first sentence in paragraph (a);

■ c. By redesignating footnote 7 as footnote 6:

■ d. By revising paragraph (b);

■ e. By redesignating paragraphs (c) and (d) as paragraphs (d) and (f), respectively; and

■ f. By adding new paragraphs (c) and reserved (e).

The revisions and additions read as follows:

[4] Technical assistance and guidance may be obtained by contacting APHIS.

§ 331.14 Incident response.[5]

(a) An individual or entity required to register under this part must develop and implement a written incident response plan[6] based upon a site specific risk assessment. * * *

(b) The incident response plan must fully describe the entity's response procedures for the theft, loss, or release of a select agent or toxin; inventory discrepancies; security breaches (including information systems); severe weather and other natural disasters; workplace violence; bomb threats and suspicious packages; and emergencies such as fire, gas leak, explosion, power outage, and other natural and man-made events.

(c) The response procedures must account for hazards associated with the select agent or toxin and appropriate actions to contain such select agent or toxin, including any animals (including arthropods) or plants intentionally or accidentally exposed to or infected with a select agent.

* * * * *

■ 10. Section 331.15 is revised to read as follows:

§ 331.15 Training.

(a) An individual or entity required to register under this part must provide information and training on biocontainment, biosafety, security (including security awareness), and incident response to:

(1) Each individual with access approval from the HHS Secretary or Administrator before that individual has such access to select agents and toxins. The training must address the particular needs of the individual, the work they will do, and the risks posed by the select agents or toxins; and

(2) Each individual not approved for access to select agents and toxins by the HHS Secretary or Administrator before that individual enters areas where select agents or toxins are handled or stored (e.g., laboratories, growth chambers, animal rooms, greenhouses, storage areas, shipping/receiving areas, production facilities, etc.). Training for escorted personnel must be based on the risk associated with accessing areas where select agents and toxins are used and/or stored.

(b) [Reserved]

(c) Refresher training must be provided annually for individuals with access approval from the HHS Secretary or Administrator or at such time as the

[5] Nothing in this section is meant to supersede or preempt incident response requirements imposed by other statutes or regulations.

[6] Technical assistance and guidance may be obtained by contacting APHIS.

registered individual or entity significantly amends its security, incident response, or biocontainment plans.

(d) The responsible official must ensure a record of the training provided to each individual with access to select agents and toxins and each escorted individual (e.g., laboratory workers, visitors, etc.) is maintained. The record must include the name of the individual, the date of the training, a description of the training provided, and the means used to verify that the employee understood the training.

■ 11. Section 331.16 is amended as follows:

■ a. By redesignating footnote 8 as footnote 7;

■ b. By redesignating paragraphs (e) through (h) as paragraphs (h), (i), (j), and (f) respectively;

■ c. By adding a new paragraph (e);

■ d. In newly redesignated paragraph (f), by removing the words "packaging and"; and

■ e. By adding a new paragraph (g).

The additions read as follows:

§ 331.16 Transfers.

* * * * *

(e) After authorization is provided by APHIS or CDC, the packaging of the select agent(s) and toxin(s) is performed by an individual approved by the HHS Secretary or Administrator to have access to select agents and toxins and is in compliance with all applicable laws concerning packaging.

* * * * *

(g) Transportation in commerce starts when the select agent(s) or toxin(s) are packaged for shipment and ready for receipt by a courier transporting select agent(s) or toxin(s) and ends when the package is received by the intended recipient who is an individual approved by the HHS Secretary or Administrator to have access to select agents and toxins, following a security risk assessment by the Attorney General.

* * * * *

■ 12. Section 331.17 is amended as follows:

■ a. By revising paragraph (a)(1) introductory text;

■ b. By redesignating paragraphs (a)(2) through (6) as paragraphs (a)(3) through (7), respectively; and

■ c. By adding a new paragraph (a)(2).

The revision and addition read as follows:

§ 331.17 Records.

(a) * * *

(1) An accurate, current inventory for each select agent (including viral genetic elements, recombinant and/or synthetic nucleic acids, and organisms containing recombinant and/or synthetic nucleic acids) held in long-term storage (placement in a system designed to ensure viability for future use, such as in a freezer or lyophilized materials), including:

* * * * *

(2) An accurate, current accounting of any animals or plants intentionally or accidentally exposed to or infected with a select agent (including number and species, location, and appropriate disposition);

* * * * *

§ 331.19 [Amended]

■ 13. Section 331.19 is amended as follows:

■ a. By removing paragraph (b)(1)(iv); and

■ b. By redesignating paragraphs (b)(1)(v) through (b)(1)(viii) as paragraphs (b)(1)(iv) through (b)(1)(vii), respectively.

■ 14. Section 331.20 is revised to read as follows:

§ 331.20 Administrative review.

(a) An individual or entity may appeal a denial, revocation, or suspension of registration under this part. The appeal must be in writing, state the factual basis for the appeal, and be submitted to the Administrator within 30 calendar days of the decision.

(b) An individual may appeal a denial, limitation, or revocation of access approval under this part. The appeal must be in writing, state the factual basis for the appeal, and be submitted to the Administrator within 180 calendar days of the decision.

(c) The Administrator's decision constitutes final agency action.

Title 9

PART 121—POSSESSION, USE, AND TRANSFER OF SELECT AGENTS AND TOXINS

■ 15. The authority citation for part 121 continues to read as follows:

Authority: 7 U.S.C. 8401; 7 CFR 2.22, 2.80, and 371.4.

■ 16. Section 121.1 is amended as follows:

■ a. In the introductory text of the definition of *biological agent,* by removing the word "rickettsiae,";

■ b. By adding, in alphabetical order, definitions of *information security, occupational exposure, recombinant nucleic acids, security barrier,* and *synthetic nucleic acids;* and

■ c. In the introductory text of the definition of *toxin,* by removing the word "rickettsiae,".

The additions read as follows:

§ 121.1 Definitions.

* * * * *

Information security. Protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide:

(1) *Integrity,* which means guarding against improper information modification or destruction, and includes ensuring information authenticity;

(2) *Confidentiality,* which means preserving authorized restrictions on access and disclosure, including means for protecting personal privacy and proprietary information; and

(3) *Availability,* which means ensuring timely and reliable access to and use of information.

* * * * *

Occupational exposure. Any reasonably anticipated skin, eye, mucous membrane, parenteral contact, or respiratory aerosol exposure to select agents or toxins that may result from the performance of an employee's duties.

* * * * *

Recombinant nucleic acids. (1) Molecules that are constructed by joining nucleic acid molecules and that can replicate in a living cell; or

(2) Molecules that result from the replication of those described in paragraph (1) of this definition.

* * * * *

Security barrier. A physical structure that is designed to prevent entry by unauthorized persons.

* * * * *

Synthetic nucleic acids. (1) Molecules that are chemically or by other means synthesized or amplified, including those that are chemically or otherwise modified but can base pair with naturally occurring nucleic acid molecules (i.e., synthetic nucleic acids); or

(2) Molecules that result from the replication of those described in paragraph (1) of this definition.

* * * * *

■ 17. Section 121.3 is amended as follows:

■ a. By adding a sentence at the end of paragraph (a);

■ b. By revising paragraph (b);

■ c. In paragraph (c) introductory text, by adding the words "and/or synthetic" after the word "recombinant" each time it appears;

■ d. In paragraph (c)(2), by adding the words "and/or synthetic" after the word "Recombinant";

■ e. By adding paragraph (d)(3);

■ f. By revising paragraph (e); and

■ g. In paragraph (f)(3)(i), by removing the words "Newcastle disease virus"(velogenic)" and adding the words "virulent Newcastle disease virus" in their place.

The revisions and additions read as follows:

§ 121.3 VS select agents and toxins.

(a) * * * The select agents and toxins marked with an asterisk (*) are designated as Tier 1 select agents and toxins and are subject to additional requirements as listed in this part.

(b) VS select agents and toxins: African horse sickness virus; African swine fever virus; Avian influenza virus; Classical swine fever virus; *Foot-and-mouth disease virus; Goat pox virus; Lumpy skin disease virus; *Mycoplasma capricolum*; *Mycoplasma mycoides*; Newcastle disease virus; [1] Peste des petits ruminants virus; *Rinderpest virus; Sheep pox virus; Swine vesicular disease virus.

* * * * *

(d) * * *

(3) Any low pathogenic strains of avian influenza virus, any strain of Newcastle disease virus which does not meet the criteria for virulent Newcastle disease virus, all subspecies *Mycoplasma capricolum* except subspecies *capripneumoniae* (contagious caprine pleuropneumonia), and all subspecies *Mycoplasma mycoides* except subspecies *mycoides* small colony (*Mmm* SC) (contagious bovine pleuropneumonia), provided that the individual or entity can verify that the agent is within the exclusion category.

(e) An attenuated strain of a select agent or an inactive form of a select toxin may be excluded from the requirements of this part based upon a determination by the Administrator that the attenuated strain or inactivated toxin does not pose a severe threat to animal health or to animal products.

(1) To apply for exclusion, an individual or entity must submit a written request and supporting scientific information. A written decision granting or denying the request will be issued. An exclusion will be effective upon notification to the applicant. Exclusions will be listed on the National Select Agent Registry Web site at *http://www.selectagents.gov/*.

(2) If an excluded attenuated strain or inactivated toxin is subjected to any manipulation that restores or enhances its virulence or toxic activity, the resulting select agent or toxin will be subject to the requirements of this part.

* * * * *

■ 18. Section 121.4 is amended as follows:

■ a. By adding a sentence at the end of paragraph (a);

■ b. By revising paragraph (b);

■ c. In paragraph (c) introductory text, by adding the words "and/or synthetic" after the word "recombinant" each time it appears;

■ d. In paragraph (c)(2) introductory text, by adding the phrase "and/or synthetic" after the word "Recombinant";

■ e. By adding paragraph (d)(3);

■ f. By revising paragraph (e); and

■ g. In paragraph (f)(3)(i), by removing the words "*Brucella melitensis*, Hendra virus, Nipah virus, Rift Valley fever virus, and Venezuelan equine encephalitis virus" and adding the words "*Burkholderia mallei*, and *Burkholderia pseudomallei*" in their place.

The revisions and additions read as follows:

§ 121.4 Overlap select agents and toxins.

(a) * * * The select agents and toxins marked with an asterisk (*) are designated as Tier 1 select agents and toxins and are subject to additional requirements as listed in this part.

(b) Overlap select agents and toxins: **Bacillus anthracis; Bacillus anthracis* (Pasteur strain); *Brucella abortus; Brucella melitensis; Brucella suis; **Burkholderia mallei; **Burkholderia pseudomallei;* Hendra virus; Nipah virus; Rift Valley fever virus; Venezuelan equine encephalitis virus.

* * * * *

(d) * * *

(3) Any subtypes of Venezuelan equine encephalitis virus except for Subtypes IAB or IC, provided that the individual or entity can verify that the agent is within the exclusion category.

(e) An attenuated strain of a select agent or an inactive form of a select toxin may be excluded from the requirements of this part based upon a determination by the HHS Secretary or Administrator that the attenuated strain or inactivated toxin does not pose a severe threat to public health and safety, to animal health or to animal products.

(1) To apply for exclusion, an individual or entity must submit a written request and supporting scientific information. A written decision granting or denying the request will be issued. An exclusion will be effective upon notification to the applicant. Exclusions will be listed on the National Select Agent Registry Web site at *http://www.selectagents.gov/*.

(2) If an excluded attenuated strain or inactivated toxin is subjected to any manipulation that restores or enhances its virulence or toxic activity, the resulting select agent or toxin will be subject to the requirements of this part.

* * * * *

§ 121.5 [Amended]

■ 19. In § 121.5, paragraph (a)(3)(i) is amended by removing the words "bovine spongiform encephalopathy agent,".

■ 20. Section 121.6 is amended as follows:

■ a. In paragraph (a)(3)(i) by removing the words "*Brucella melitensis*, Hendra virus, Nipah virus, Rift Valley fever virus, and Venezuelan equine encephalitis virus" and adding the words "*Burkholderia mallei*, and *Burkholderia pseudomallei*" in their place; and

■ b. By revising paragraph (e) to read as follows:

§ 121.6 Exemptions for overlap select agents and toxins.

* * * * *

(e) The Administrator may exempt an individual or entity from the requirements of this part for 30 calendar days if it is necessary to respond to a domestic or foreign agricultural emergency involving an overlap select agent or toxin. The Administrator may extend the exemption once for an additional 30 days.

* * * * *

■ 21. Section 121.9 is amended as follows:

■ a. In paragraph (a)(4), by removing the word "and";

■ b. By redesignating paragraph (a)(5) as paragraph (a)(6);

■ c. By adding a new paragraph (a)(5);

■ d. By revising the first sentence of paragraph (b); and

■ e. By revising the first sentence of paragraph (c)(1).

The addition and revisions read as follows:

§ 121.9 Responsible official.

(a) * * *

(5) Have a physical (and not merely a telephonic or audio/visual) presence at the registered entity to ensure that the entity is in compliance with the select agent regulations and be able to respond in a timely manner to onsite incidents involving select agents and toxins in

[1] A virulent Newcastle disease virus (avian paramyxovirus serotype 1) has an intracerebral pathogenicity index in day-old chicks (*Gallus gallus*) of 0.7 or greater or has an amino acid sequence at the fusion (F) protein cleavage site that is consistent with virulent strains of Newcastle disease virus. A failure to detect a cleavage site that is consistent with virulent strains does not confirm the absence of a virulent virus.

accordance with the entity's incident response plan; and

* * * * *

(b) An entity may designate one or more individuals to serve as an alternate responsible official who acts for the responsible official in his/her absence.

* * *

(c) * * *

(1) The identification of any of the following select agents or toxins must be immediately reported by telephone, facsimile, or email: African horse sickness virus, African swine fever virus, avian influenza virus (highly pathogenic), *Bacillus anthracis, Burkholderia mallei, Burkholderia pseudomallei,* classical swine fever virus, foot-and-mouth disease virus, virulent Newcastle disease virus, rinderpest virus, and swine vesicular disease virus. * * *

* * * * *

■ 22. Section 121.10 is amended as follows:

■ a. By redesignating paragraphs (e) through (j) as paragraphs (f) through (k), respectively;

■ b. By adding a new paragraph (e); and

■ c. In newly redesignated paragraph (j), by removing the number "5" and adding the number "3" in its place.

The addition reads as follows:

§ 121.10 Restricting access to select agents and toxins; security risk assessments.

* * * * *

(e) A person with valid approval from the HHS Secretary or Administrator to have access to select agents or toxins may request, through his or her Responsible Official, that the HHS Secretary or Administrator provide their approved access status to another registered individual or entity for a specified period of time.

* * * * *

■ 23. Section 121.11 is amended as follows:

■ a. By revising paragraph (b);

■ b. By revising paragraph (c)(2);

■ c. In paragraph (c)(6), by removing the word "and";

■ d. By adding new paragraphs (c)(8), (9), and (10);

■ e. By redesignating paragraphs (e) and (f) as paragraphs (g) and (h), respectively;

■ f. By adding new paragraphs (e) and (f); and

■ g. By revising newly redesignated paragraph (g).

The revisions and additions read as follows:

§ 121.11 Security.

* * * * *

(b) The security plan must be designed according to a site-specific risk assessment and must provide graded protection in accordance with the risk of the select agent or toxin, given its intended use. A current security plan must be submitted for initial registration, renewal of registration, or when requested.

(c) * * *

(2) Contain provisions for the control of access to select agents and toxins, including the safeguarding of animals or plants intentionally or accidentally exposed to or infected with a select agent, against unauthorized access, theft, loss or release.

* * * * *

(8) Describe procedures for how the responsible official will be informed of suspicious activity that may be criminal in nature and related to the entity, its personnel, or its select agents or toxins; and describe procedures for how the entity will notify the appropriate Federal, State, or local law enforcement agencies of such activity.

(9) Contain provisions for information security that:

(i) Ensure that all external connections to systems which manage security for the registered space are isolated or have controls that permit only authorized and authenticated users;

(ii) Ensure that authorized and authenticated users are only granted access to select agent and toxin related information, files, equipment (e.g., servers or mass storage devices), and applications as necessary to fulfill their roles and responsibilities, and that access is modified when the user's roles and responsibilities change or when their access to select agents and toxins is suspended or revoked;

(iii) Ensure that controls are in place that are designed to prevent malicious code (such as, but not limited to, computer viruses, worms, spyware) from compromising the confidentiality, integrity, or availability of information systems which manage access to spaces registered under this part or records as specified in § 121.17;

(iv) Establish a robust configuration management practice for information systems to include regular patching and updates made to operating systems and individual applications; and

(v) Establish procedures that provide backup security measures in the event that access control systems, surveillance devices, and/or systems that manage the requirements of § 121.17 are rendered inoperable.

(10) Contain provisions and policies for shipping, receiving, and storage of select agents and toxins, including documented procedures for receiving, monitoring, and shipping of all select agents and toxins. These provisions must provide that an entity will properly secure containers on site and have a written contingency plan for unexpected shipments.

* * * * *

(e) Entities must conduct complete inventory audits of all affected select agents and toxins in long-term storage when any of the following occur:

(1) Upon the physical relocation of a collection or inventory of select agents or toxins for those select agents or toxins in the collection or inventory;

(2) Upon the departure or arrival of a principal investigator for those select agents and toxins under the control of that principal investigator; or

(3) In the event of a theft or loss of a select agent or toxin, all select agents and toxins under the control of that principal investigator.

(f) In addition to the requirements contained in paragraphs (c) and (d) of this section, the security plan for an individual or entity possessing a Tier 1 select agent or toxin must also:

(1) Describe procedures for conducting a pre-access suitability assessment of persons who will have access to a Tier 1 select agent or toxin;

(2) Describe procedures for how an entity's responsible official will coordinate their efforts with the entity's safety and security professionals to ensure security of Tier 1 select agents and toxins and share, as appropriate, relevant information; and

(3) Describe procedures for the ongoing assessment of the suitability of personnel with access to a Tier 1 select agent or toxin. The procedures must include:

(i) Self- and peer-reporting of incidents or conditions that could affect an individual's ability to safely have access to or work with select agents and toxins, or to safeguard select agents and toxins from theft, loss, or release;

(ii) The training of employees with access to Tier 1 select agents and toxins on entity policies and procedures for reporting, evaluation, and corrective actions concerning the assessment of personnel suitability; and

(iii) The ongoing suitability monitoring of individuals with access to Tier 1 select agents and toxins.

(4) Entities with Tier 1 select agents and toxins must prescribe the following security enhancements:

(i) Procedures that will limit access to a Tier 1 select agent or toxin to only those individuals who are approved by the HHS Secretary or Administrator

following a security risk assessment by the Attorney General, have had an entity-conducted pre-access suitability assessment, and are subject to the entity's procedures for ongoing suitability assessment;

(ii) Procedures that limit access to laboratory and storage facilities outside of normal business hours to only those specifically approved by the responsible official or designee;

(iii) Procedures for allowing visitors, their property, and vehicles at the entry and exit points to the registered space, or at other designated points of entry to the building, facility, or compound that are based on the entity's site-specific risk assessment;

(iv) A minimum of three security barriers where each security barrier adds to the delay in reaching secured areas where select agents and toxins are used or stored. One of the security barriers must be monitored in such a way as to detect intentional and unintentional circumventing of established access control measures under all conditions (day/night, severe weather, etc.) The final barrier must limit access to the select agent or toxin to personnel approved by the HHS Secretary or Administrator, following a security risk assessment by the Attorney General.

(v) All registered space or areas that reasonably afford access to the registered space must be protected by an intrusion detection system (IDS) unless physically occupied;

(vi) Personnel monitoring the IDS must be capable of evaluating and interpreting the alarm and alerting the designated security response force or law enforcement;

(vii) For powered access control systems, describe procedures to ensure that security is maintained in the event of the failure of access control systems due to power disruption affecting registered space;

(viii) The entity must:

(A) Determine that the response time for security forces or local police will not exceed 15 minutes where the response time is measured from the time of an intrusion alarm, or report of a security incident, to the arrival of the responders at the first security barrier or;

(B) Provide security barriers that are sufficient to delay unauthorized access until the response force arrives in order to safeguard the select agents and toxins from theft, intentional release, or unauthorized access. The response time is measured from the time of an intrusion alarm, or report of a security incident, to the arrival of the responders at the first security barrier.

(5) Entities that possess foot-and-mouth disease virus and rinderpest virus must have the following additional security requirements:

(i) A minimum of four barriers, one of which must be a perimeter security fence or equivalent which is monitored 24 hours a day, 7 days a week (24/7) to detect the presence of unauthorized persons, vehicles, materials, or unauthorized activities;

(ii) Onsite 24/7 armed security response force with roving patrol. Response time must not exceed 5 minutes from the time of an intrusion alarm or report of a security incident;

(iii) CCTV surveillance with 24/7 monitoring and recording; and

(iv) Transport vehicle with GPS tracking designed to serve as a containment vehicle.

(g) In developing a security plan, an individual or entity should consider the document entitled, "Security Guidance for Select Agent or Toxin Facilities." This document is available on the Internet at *http://www.selectagents.gov/.*

* * * * *

■ 24. Section 121.12 is amended as follows:

■ a. By revising paragraph (a);

■ b. By revising paragraph (c)(1);

■ c. By adding a second sentence to paragraph (c)(2);

■ d. In paragraph (c)(3), by removing the address "*http://www.aphis.usda.gov/programs/ag_selectagent/index.html*" and adding in its place "*http://www.selectagents.gov/*";

■ e. By redesignating paragraph (d) as paragraph (e); and

■ f. By adding a new paragraph (d).

The revisions and addition read as follows:

§ 121.12 Biosafety.

(a) An individual or entity required to register under this part must develop and implement a written biosafety plan that is commensurate with the risk of the select agent or toxin, given its intended use.[9] The biosafety plan must contain sufficient information and documentation to describe the biosafety and containment procedures for the select agent or toxin, including any animals (including arthropods) or plants intentionally or accidentally exposed to or infected with a select agent.

* * * * *

(c) * * *

(1) The CDC/NIH publication, "Biosafety in Microbiological and Biomedical Laboratories." This document is available on the National Select Agent Registry at *http://www.selectagents.gov/.*

(2) * * * This document is available on the National Select Agent Registry at *http://www.selectagents.gov/.*

* * * * *

(d) The biosafety plan must include an occupational health program for individuals with access to Tier 1 select agents and toxins, and those individuals must be enrolled in the occupational health program.

* * * * *

■ 25. Section 121.13 is amended by removing footnote 10 and revising paragraphs (a) and (b) to read as follows:

§ 121.13 Restricted experiments.

(a) An individual or entity may not conduct, or possess products (i.e., select agents that are not known to acquire a drug resistance trait naturally, if such acquisition could compromise the control of disease agents in humans, veterinary medicine, or agriculture, or recombinant and/or synthetic nucleic acids containing genes for the biosynthesis of select toxins lethal for vertebrates at an LD[50] < 100 ng/kg body weight) resulting from, the following experiments unless approved by and conducted in accordance with the conditions prescribed by the Administrator:

(b) *Restricted experiments:* (1) Experiments that involve the deliberate transfer of, or selection for, a drug resistance trait to select agents that are not known to acquire the trait naturally, if such acquisition could compromise the control of disease agents in humans, veterinary medicine, or agriculture.

(2) Experiments involving the deliberate formation of synthetic or recombinant nucleic acids containing genes for the biosynthesis of select toxins lethal for vertebrates at an LD[50]<100 ng/kg body weight.

* * * * *

■ 26. Section 121.14 is amended as follows:

■ a. In the section heading, by redesignating footnote 11 as footnote 10;

■ b. In paragraph (a), by redesignating footnote 12 as footnote 11 and revising the first sentence of paragraph (a);

■ c. By revising paragraph (b);

■ d. By redesignating paragraphs (c) and (d) as paragraphs (d) and (f), respectively; and

■ e. By adding new paragraphs (c) and (e).

The revisions and additions read as follows:

[9] Technical assistance and guidance may be obtained by contacting APHIS.

§ 121.14 Incident response.[10]

(a) An individual or entity required to register under this part must develop and implement a written incident response plan[11] based upon a site specific risk assessment. * * *

(b) The incident response plan must fully describe the entity's response procedures for the theft, loss, or release of a select agent or toxin; inventory discrepancies; security breaches (including information systems); severe weather and other natural disasters; workplace violence; bomb threats and suspicious packages; and emergencies such as fire, gas leak, explosion, power outage, and other natural and man-made events.

(c) The response procedures must account for hazards associated with the select agent or toxin and appropriate actions to contain such select agent or toxin, including any animals (including arthropods) or plants intentionally or accidentally exposed to or infected with a select agent.

* * * * *

(e) Entities with Tier 1 select agents and toxins must have the following additional incident response policies or procedures:

(1) The incident response plan must fully describe the entity's response procedures for failure of intrusion detection or alarm system; and

(2) The incident response plan must describe procedures for how the entity will notify the appropriate Federal, State, or local law enforcement agencies of suspicious activity that may be criminal in nature and related to the entity, its personnel, or its select agents or toxins.

* * * * *

■ 27. Section 121.15 is revised to read as follows:

§ 121.15 Training.

(a) An individual or entity required to register under this part must provide information and training on biosafety, security (including security awareness), and incident response to:

(1) Each individual with access approval from the HHS Secretary or Administrator before that individual has such access to select agents and toxins. The training must address the particular needs of the individual, the work they will do, and the risks posed by the select agents or toxins; and

(2) Each individual not approved for access to select agents and toxins by the HHS Secretary or Administrator before that individual enters areas where select agents or toxins are handled or stored (e.g., laboratories, growth chambers, animal rooms, greenhouses, storage areas, shipping/receiving areas, production facilities, etc.). Training for escorted personnel must be based on the risk associated with accessing areas where select agents and toxins are used and/or stored.

(b) Entities with Tier 1 select agents and toxins must conduct annual insider threat awareness briefings on how to identify and report suspicious behaviors.

(c) Refresher training must be provided annually for individuals with access approval from the HHS Secretary or Administrator or at such time as the registered individual or entity significantly amends its security, incident response, or biosafety plans.

(d) The responsible official must ensure a record of the training provided to each individual with access to select agents and toxins and each escorted individual (e.g., laboratory workers, visitors, etc.) is maintained. The record must include the name of the individual, the date of the training, a description of the training provided, and the means used to verify that the employee understood the training.

■ 28. Section 121.16 is amended as follows:

■ a. By redesignating footnote 14 as footnote 12;

■ b. By redesignating paragraphs (f) through (i) as paragraphs (i), (j), (k), and (g), respectively;

■ c. By adding a new paragraph (f);

■ d. In newly redesignated paragraph (g), by removing the words "packaging and"; and

■ e. By adding a new paragraph (h).

The additions read as follows:

§ 121.16 Transfers.

* * * * *

(f) After authorization is provided by APHIS or CDC, the packaging of the select agent(s) and toxin(s) is performed by an individual approved by the HHS Secretary or Administrator to have access to select agents and toxins and is in compliance with all applicable laws concerning packaging.

* * * * *

(h) Transportation in commerce starts when the select agent(s) or toxin(s) are packaged for shipment and ready for receipt by a courier transporting select agent(s) or toxin(s) and ends when the package is received by the intended recipient who is an individual approved by the HHS Secretary or Administrator to have access to select agents and toxins, following a security risk assessment by the Attorney General.

* * * * *

■ 29. Section 121.17 is amended as follows:

■ a. By revising paragraph (a)(1) introductory text;

■ b. By redesignating paragraphs (a)(2) through (6) as paragraphs (a)(3) through (7), respectively; and

■ c. By adding a new paragraph (a)(2).

The revision and addition read as follows:

§ 121.17 Records.

(a) * * *

(1) An accurate, current inventory for each select agent (including viral genetic elements, recombinant and/or synthetic nucleic acids, and organisms containing recombinant and/or synthetic nucleic acids) held in long-term storage (placement in a system designed to ensure viability for future use, such as in a freezer or lyophilized materials), including:

* * * * *

(2) An accurate, current accounting of any animals or plants intentionally or accidentally exposed to or infected with a select agent (including number and species, location, and appropriate disposition);

* * * * *

■ 30. Section 121.20 is revised to read as follows:

§ 121.20 Administrative review.

(a) An individual or entity may appeal a denial, revocation, or suspension of registration under this part. The appeal must be in writing, state the factual basis for the appeal, and be submitted to the Administrator within 30 calendar days of the decision.

(b) An individual may appeal a denial, limitation, or revocation of access approval under this part. The appeal must be in writing, state the factual basis for the appeal, and be submitted to the Administrator within 180 calendar days of the decision.

(c) The Administrator's decision constitutes final agency action.

Done in Washington, DC, this 28th day of September 2012.

Edward Avalos,

Under Secretary for Marketing and Regulatory Programs.

[FR Doc. 2012–24434 Filed 10–2–12; 11:15 am]

BILLING CODE 3410–34–P

[10] Nothing in this section is meant to supersede or preempt incident response requirements imposed by other statutes or regulations.

[11] Technical assistance and guidance may be obtained by contacting APHIS.

FEDERAL REGISTER

Vol. 77 Friday,
No. 194 October 5, 2012

Part III

Department of Health and Human Services

42 CFR Part 73
Possession, Use, and Transfer of Select Agents and Toxins; Biennial Review; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Docket No. CDC–2011–0012]

42 CFR Part 73

RIN 0920–AA34

Possession, Use, and Transfer of Select Agents and Toxins; Biennial Review

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: In accordance with the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, the Centers for Disease Control and Prevention (CDC) located within the Department of Health and Human Services (HHS) has reviewed the list of biological agents and toxins that have the potential to pose a severe threat to public health and safety and is republishing that list. As a result of our review, we have added Chapare virus, Lujo virus, and SARS-associated coronavirus (SARS-CoV) to the list of HHS select agents and toxins. We have also removed from the list of HHS and overlap select agents and toxins, or excluded from compliance with part 73, the agents and toxins described in the Executive Summary. Further, in accordance with Executive Order 13546, "Optimizing the Security of Biological Select Agents and Toxins in the United States," HHS/CDC has designated those select agents and toxins that present the greatest risk of deliberate misuse with the most significant potential for mass casualties or devastating effects to the economy, critical infrastructure; or public confidence as "Tier 1" agents; established new security requirements for entities possessing Tier 1 agents, including the requirement to conduct pre-access assessments and on-going monitoring of personnel with access to Tier 1 agents and toxins; and made revisions to the regulations to clarify regulatory language concerning security, training, biosafety, and incident response.

In a companion document published in this issue of the **Federal Register**, the United States Department of Agriculture (USDA) has made parallel regulatory changes.

DATES: *Effective Dates:* The amendments to §§ 73.1, 73.3 through 73.6, 73.9, 73.10, 73.13, 73.16, 73.17, and 73.20, of Title 42, Code of Federal Regulations are effective December 4, 2012. The remaining provisions to this final rule are effective April 3, 2013.

Applicability Dates: By December 4, 2012, all entities that possess SARS, Chapare, and Lujo viruses must provide notice to CDC regarding their possession of these viruses, and by April 3, 2013, all previously unregistered entities must meet all of the requirements of this part.

The Final Rule timelines are based on the timelines that worked effectively for the Federal Select Agent Program Interim Final Rules that were published in December 2002. If the regulated community has concerns about the established timeline, they can contact Federal Select Agent Program for technical assistance.

Comment Date: Written comments on the new information collection contained in this final rule should be received by October 15, 2012.

ADDRESSES: Please send written comments on the new information collection contained in this final rule to CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Robbin Weyant, Director, Division of Select Agents and Toxins, Centers for Disease Control and Prevention, 1600 Clifton Road NE., Mailstop A–46, Atlanta, Georgia 30333. Telephone: (404) 718–2000.

SUPPLEMENTARY INFORMATION: The Preamble to this final rule is organized as follows:

I. Executive Summary

We published an Advance Notice of Proposed Rulemaking (ANPRM) (75 FR 42363) on July 21, 2010 and a Notice of Proposed Rulemaking (NPRM) (76 FR 61206) on October 3, 2011. The NPRM solicited comments regarding (1) the appropriateness of the current HHS list of select agents and toxins; (2) whether there are other biological agents or toxins that should be added to the HHS list; (3) whether biological agents or toxins currently on the HHS list should be deleted from the list; (4) whether the HHS select agents and toxins list should be tiered based on the relative bioterrorism risk of each biological agent or toxin; and (5) whether the security requirements for select agents or toxins in the highest tier should be further stratified based on type of use or other factors. In addition, Executive Order 13546 "Optimizing the Security of Biological Select Agents and Toxins in the United States" directed the HHS Secretary to (1) designate a subset of the select agents and toxins list (Tier 1) that presents the greatest risk of deliberate misuse with the most significant potential for mass casualties or devastating effects to the economy, critical infrastructure; or public confidence; (2) explore options for graded protection for these Tier 1 agents and toxins to permit tailored risk management practices based upon relevant contextual factors; and (3) consider reducing the overall number of agents and toxins on the select agents and toxins list:

We provided a 60-day comment period for written comments that ended December 2, 2011. We extended the comment period for an additional 30-day period that ended January 17, 2012.

The changes to the current regulations include:

1. Modification of the select agent and toxin list:

a. The following viruses are added to the HHS select agent list based on scientific data related to their significant public health risk: SARS-CoV, Lujo and Chapare viruses.

b. The following agents would no longer be considered HHS select agents or toxins, or would be excluded from compliance with part 73: Cercopithecine Herpesvirus 1 (Herpes B virus), *Clostridium perfringens* epsilon toxin, *Coccidioides posadasii/Coccidioides immitis*, Eastern Equine Encephalitis virus (South American type only), Flexal virus, West African clade of Monkeypox virus, *Rickettsia rickettsii*, the non-short, paralytic alpha conotoxins containing the following amino acid sequence

$X_1CCX_2PACGX_3X_4X_5X_6CX_7$, [1] Shigatoxins, Shiga-like ribosome inactivating proteins, Staphylococcal Enterotoxins (non-A, non-B, non-C, non-D, and non-E subtypes), and Tick-borne encephalitis complex viruses (Central European subtype).

c. The following agent would no longer be considered an overlap select agent: Venezuelan Equine Encephalitis Virus (subtypes ID and IE).

2. Tiering of the select agent and toxin list:

a. Tier I agents:

i. HHS select agents and toxins
(1) Ebola virus
(2) *Francisella tularensis*
(3) Marburg virus
(4) Variola major virus
(5) Variola minor virus
(6) *Yersinia pestis*
(7) Botulinum neurotoxin
(8) Botulinum neurotoxin producing species of *Clostridium*

ii. Overlap select agents and toxins
(1) *Bacillus anthracis*
(2) *Burkholderia mallei*
(3) *Burkholderia pseudomallei*

3. Establishing physical security standards for entities possessing Tier I select agents and toxins, including the requirement to conduct pre-access assessments and on-going monitoring of personnel with access to Tier 1 agents and toxins;

4. Miscellaneous revisions to the regulations to clarify regulatory language concerning security, training, biosafety, and incident response.

Costs of the Rule: The entities that will be affected by the final rules include research and diagnostic facilities; Federal, State, and university laboratories; and private commercial and non-profit enterprises. The regulations require registering the possession, use, and transfer of select agents or toxins. In addition, the entity is required to ensure that the facility where the agent or toxin is housed has adequate biosafety and containment measures, that the physical security of the premises is adequate, that all individuals with access to select agents or toxins have the appropriate education, training, and/or experience to handle such agents or toxins, and that complete records concerning activities related to the select agents or toxins are maintained.

The final rules will further reduce or minimize the risk of misuse of select agents and toxins that have the potential to pose a severe threat to human, animal or plant health, or to animal or plant products. The USDA/Animal and Plant Health Inspection Service (APHIS) and HHS/CDC recognize that several of the required measures of the regulations may impose certain operational costs upon affected entities, particularly entities that have the newly designated Tier 1 select agents and toxins. In many cases, however, the affected entities already employ some or all of the required measures. Compliance costs actually incurred will therefore vary from one entity to the next.

While information on the specific changes that would need to occur at individual sites and the associated costs was not readily available during proposed rulemaking, some general observations regarding the potential costs were presented. These general cost observations can be found in table 2 in the Regulatory Impact Analysis located at: *www.regulations.gov* and at *http://www.selectagents.gov/*.

Benefits of the Rule: The objectives of the final rules are to create a means of ensuring enhanced oversight in the transfer, storage, and use of select agents and toxins; define the security procedures and suitability assessments for pre-access suitability and continual monitoring of individuals with access to Tier 1 select agents and toxins; and require that entities in possession of such agents and toxins develop and implement effective means of biosafety, information security, and physical security. The overall benefit of the amended provisions will be a reduced likelihood of the accidental or intentional release of a select agent or toxin and the avoidance of costs associated with such a release. The goal of the amended regulations is to enhance the protection of human, animal, and plant health and safety.

II. Changes to 42 CFR Part 73

The table below describes the changes to the current regulation.

Section No.	Current	Change
73.0	Applicability and related requirements	No change.
73.1	Definitions	Definitions added: Conotoxins; Information security; Occupational exposure; Recombinant nucleic acids; Security barrier; and Synthetic nucleic acids.
73.2	Purpose and scope	No change.
73.3	HHS select agents and toxins	Designates Tier 1 select agents and toxins; adds select agents and toxins; clarifies language; deletes from the HHS list.
73.4	Overlap select agents and toxins	Designates Tier 1 select agents and toxins; adds select agents and toxins; clarifies language; deletes from the overlap list.
73.5	Exemptions for HHS select agents and toxins.	Amends the immediate notification list to Tier 1 agents; clarifies language.
73.6	Exemptions for overlap select agents and toxins.	Amends the immediate notification list to Tier 1 agents; clarifies language.
73.7	Registration and related security risk assessments.	No change.
73.8	Denial, revocation, or suspension of registration.	No change.
73.9	Responsible Official	Adds new paragraph (a)(5); clarifies language.
73.10	Restricting access to select agents and toxins; security risk assessments.	Adds new paragraph (e); adds clarifying language.
73.11	Security	Revises regulatory text—paragraph (b), (c)(2),(g). Adds new paragraphs (c)(8), (c)(9), (c)(10), (e), (f).
73.12	Biosafety	Revises paragraphs (a) and (c)(1); replaces "url" in paragraph (c)(3); adds new paragraph (d).

[1] C = Cysteine residues (indicated in bold) are all present as disulfides, with the 1st and 3rd Cysteine, and the 2nd and 4th Cysteine forming specific disulfide bridges; The consensus sequence includes known toxins α-MI and α-GI (shown above) as well as α-GIA, Ac1.1a, α-CnIA, α-CnIB; X1 = any amino acid(s) or Des-X; X2 = Asparagine or Histidine; P = Proline; A = Alanine; G = Glycine; X3 = Arginine or Lysine; X4 = Asparagine, Histidine, Lysine, Arginine, Tyrosine, Phenylalanine or Tryptophan; X5 = Tyrosine, Phenylalanine, or Tryptophan; X6 = Serine, Threonine, Glutamate, Aspartate, Glutamine, or Asparagine; X7 = Any amino acid(s) or Des X; and "Des X" = "an amino acid does not have to be present at this position." For example if a peptide sequence were XCCHPA then the related peptide CCHPA would be designated as Des-X.

Section No.	Current	Change
73.13	Restricted experiments	Clarifies language.
73.14	Incident response	Revises paragraphs (a), (b); adds new paragraphs (c) and (e).
73.15	Training	Revises paragraph (a); redesignates and revises paragraphs (b), (c); adds new paragraph (b).
73.16	Transfers	Redesignates paragraphs; adds new paragraphs (f), (h), (l).
73.17	Records	Revises paragraph (a)(1); adds new paragraph (a)(2).
73.18	Inspections	No changes.
73.19	Notification of theft, loss, or release	No changes.
73.20	Administrative review	Revises paragraphs.
73.21	Civil money penalties	No changes.

A. Modifications to the List of HHS and Overlap Select Agents and Toxins

The changes to the list of HHS select agents and toxins are based on comments received in response to the NPRM, recommendations from the Federal Experts Security Advisory Panel (FESAP) and HHS/CDC's Intragovernmental Select Agents and Toxins Technical Advisory Committee (ISATTAC), and our review of current scientific literature.

Executive Order 13546 established the FESAP to advise the HHS Secretary on the designation of Tier 1 agents and toxins, the reduction in the number of agents on the select agent list, the establishment of appropriate practices to ensure reliability of personnel with access to Tier 1 agents, and the establishment of the appropriate practices for physical security and cyber security for facilities that possess Tier 1 agents.

The ISATTAC was established by the CDC Director and is comprised of Federal government employees from the CDC, the National Institutes of Health (NIH), the Food and Drug Administration (FDA), the Biomedical Advanced Research and Development Authority (BARDA) within the HHS Office of the Assistant Secretary for Preparedness and Response (HHS/ASPR), the USDA/APHIS, USDA/Agricultural Research Service (ARS), USDA/CVB (Center for Veterinary Biologics), the Department of Homeland Security (DHS), and the Department of Defense (DOD). The purpose of the ISATTAC is to assist CDC's Division of Select Agents and Toxins in performing its regulatory functions under the select agent regulations, including conducting a review of the select agents and toxins list.

We received 113 comments that addressed the composition of the select agents and toxins list.

As discussed below, the final rule removes or excludes 13 select agents and toxins, added 3 select agents, and designated 11 select agents and toxins as "Tier 1" agents.

HHS Select Agents and Toxins

Addition of Chapare and Lujo Viruses

On August 19, 2009, we proposed adding the haemorrhagic fever virus Chapare, to the list of select agents (74 FR 41829). Chapare virus is a recently described New World arenavirus that is associated with fatal hemorrhagic fever syndrome and is most closely related to Sabia virus, an HHS select agent (Ref 1).

On October 3, 2011, we proposed adding the haemorrhagic fever virus Lujo to the list of select agents (76 FR 61206). According to available reports, Lujo virus (1) caused a fatal outbreak of hemorrhagic fever, (2) has a case fatality rate of 80 percent, (3) has been phylogenetically identified as an arenavirus, and (4) is related to those members of the Old World arenaviridae family (Junin, Machupo, Sabia, Guanarito, and Lassa) listed as HHS select agents that cause hemorrhagic fever and pose a significant risk to public health and safety (Ref 2).

Some commenters argued that there does not appear to be valid evidence that these viruses could be effectively utilized as terrorism agents. Another commenter recommended that all hemorrhagic arenaviruses be included in the select agent list.

We made no changes to the HHS list of select agents and toxins based on these comments. Although the literature on these newly described viruses is small and recent, both viruses have thus far produced high morbidity and mortality rates. Both Lujo and Chapare virus share other characteristics with regulated hemorrhagic fever viruses (Junin, Machupo, Sabia, Guanarito, and Lassa). As a taxonomic group, the hemorrhagic arenaviruses exhibit distinct differences in morbidity, mortality, transmissibility, and degree of pathogenicity. Therefore our consideration of whether to add a particular arenavirus to the list is made on a taxon-by-taxon basis. As more information becomes known about the public health risks of these two new hemorrhagic fever viruses, their status as select agents can be reassessed.

Individuals and entities that currently possess Chapare or Lujo virus, if they are not already registered entities, will have to either transfer the organism or genomic material to a registered entity, destroy their stocks and report the destruction to HHS/CDC, or if they choose to retain their stocks, register with HHS/CDC and comply with all applicable regulations as provided in this final rule. We also recognize that those entities that choose to become registered will need time to come into full compliance with the requirements of the regulations. This final rule will become effective on December 4, 2012. On and after that date, any individual or entity possessing, using, or transferring any listed select agent or toxin must be in compliance with the provisions of each part. However, to minimize the disruption of critical research or educational projects involving Chapare or Lujo virus that are underway as of the effective date of these regulations, we are providing that any individual or entity possessing Chapare or Lujo virus as of the effective date (current possessors) will be afforded additional time to reach full compliance with the regulations in each part. Accordingly, by December 4, 2012, all entities that possess Chapare and/or Lujo virus must provide notice to HHS/CDC regarding their possession of Chapare and/or Lujo virus, and by April 3, 2013, all previously unregistered entities must meet all of the requirements of this part.

Addition of SARS-Associated Coronavirus (SARS-CoV)

SARS-CoV is associated with one of the most significant pandemics of the 21st century. According to the World Health Organization, the 2002–2003 SARS pandemic involved 29 countries, produced over 8000 cases of disease, and resulted in 774 deaths (Ref 3). Since the end of the pandemic the majority of reported SARS-CoV infections have occurred in laboratorians, or individuals who had close contact with infected laboratorians (Ref 4–6). At least 13 (6 primary cases and 7 contacts)

individuals have contracted laboratory-associated SARS-CoV infections (Ref 7).

On July 13, 2009, we proposed the addition of SARS-CoV to the list of select agents and toxins (74 FR 33401). We received ten comments from representatives of universities, public health laboratories, commercial, and government facilities, all arguing that SARS-CoV should not be added to the select agent list. Commenters believed that further deliberation of the biosafety and biosecurity issues involved with this agent should be considered due to the implications for research and public health activities. The commenters further reasoned that adding SARS-CoV as a select agent would decrease public safety and security by preventing expert researchers from pursuing important work due to what they described as the additional costs and onerous burdens inherent with the select agent registration and compliance process.

During the public comment period for this rulemaking we received three comments from representatives from universities and a public health laboratory that recommended the addition of SARS-CoV to the list of select agents and toxins because (1) it exhibited high transmissibility and high lethality; (2) caused epidemics on four continents with significant mortality; (3) had a major economic impact; and (4) had a major psychological impact. Commenters further argued that the virus has demonstrated its ability to cause a contagious disease, has caused several laboratory infections (including one incident that led to cases in non-laboratory contacts) and is a virus which no longer circulates in nature.

We agree with the commenters who supported the addition of SARS-CoV to the list of select agents and toxins because of the significant impact of SARS-CoV on the public health system, the high degree of pathogenicity, and the lack of vaccines or proven therapeutics currently available to prevent or treat SARS-CoV infections. Additionally, we note that the virus no longer appears to be naturally circulating in humans, raising the concern that the general population does not possess a significant level of immunity.

The genome of SARS-CoV will be regulated as an HHS select agent. As a member of the *Coronarviridae* family, SARS-CoV is an enveloped virus with a positive-sense RNA genome. Positive-sense RNA viruses that utilize host polymerases contain nucleic acids, in and of themselves, that can produce infectious forms of the virus. The select agent regulations apply to nucleic acids that can produce infectious forms of any of the select agent viruses (See section 3(c) of 42 CFR part 73, 9 CFR part 121, and 7 CFR part 331).

Based on information received from the HHS/CDC's Etiologic Agent Import Permit Program and the HHS/CDC's Office of Infectious Diseases, there are 119 entities that currently possess SARS-CoV. Of those 119 entities, 77 entities are registered with the Federal Select Agent Program; 42 entities are not registered. Of the 42 non-registered entities, only 38 may possess SARS-CoV or SARS-CoV genomic material (RNA). The 38 non-registered entities that may possess SARS-CoV or SARS-CoV genomic material (RNA) include 10 academic, 22 commercial, 5 State government, and 1 Federal government institutions.

Entities and individuals that currently possess SARS-CoV or SARS-CoV genomic material (RNA) will have to either (1) transfer the organism or genomic material to a registered entity; (2) destroy their stocks and report the destruction to CDC; or (3) register with HHS/CDC or USDA/APHIS to possess SARS-CoV and comply with all applicable regulations as provided in this final rule. We also recognize that those entities that choose to become registered with the Federal Select Agent Program will need time to come into full compliance with the requirements of the regulations. Since this final rule will become effective on December 4, 2012 and any individual or entity possessing, using, or transferring any listed agent or toxin must be in compliance with the provisions of each part on or after that date, we are providing that any individual or entity possessing SARS-CoV as of the effective date (current possessors) will be afforded additional time to reach full compliance with the regulations in each part. Accordingly, by December 4, 2012, all entities that possess SARS-CoV must provide notice to HHS/CDC regarding their possession of SARS-CoV, and by April 3, 2013, all previously unregistered entities must meet all of the requirements of this part. We are extending the effective date for these currently non-registered entities to minimize the disruption of critical research or educational projects involving SARS-CoV that are underway as of the effective date of these regulations.

Removal of Cercopithecine Herpesvirus 1 (Herpes B Virus)

We are removing Cercopithecine herpesvirus 1 (Herpes B virus) from the HHS list of select agents and toxins. We proposed the removal of Cercopithecine herpesvirus 1 (Herpes B virus) from the HHS list of select agents and toxins because the virus is not easily transmitted to humans, the person-to-person transmission risk is small, the numbers of recorded human infections are low, and multiple licensed antiviral treatments for Herpes B infections are available. The only comments that we received on this proposal were supportive for the removal.

Removal of *Clostridium Perfringens* Epsilon Toxin

The proposed rule retained *C. perfringens* epsilon toxin on the list of select agents and toxins. The final rule removes it. Commenters questioned why *C. perfringens* epsilon toxin was listed as a select agent since its production is licensed by USDA under the Virus-Serum-Toxin Act. In addition, commenters argued that from a veterinary laboratory perspective, *C. perfringens* epsilon toxin is commonly detected in the gastrointestinal tract during routine post-mortem diagnostic testing and the quantity of toxin recovered from a positive diagnostic sample would be far below the 100 mg exclusion amount provided for in the select agent regulations. Commenters also supplied scientific data in support of removal of *C. perfringens* epsilon toxin from the select agent and toxin list (Ref 8).

Although many of the concerns raised by the commenters are addressed by the exemption and exclusion provisions in the regulations (42 CFR 73.3 and 73.5), we agree with commenters and have determined that *C. perfringens* epsilon toxin should be removed from the list of HHS select agents and toxins. *C. perfringens* epsilon toxin was originally included on the select agent list because of its relatively low $(LD)_{50}$ (lethal dose fifty: the amount of the toxin required to kill 50 percent of the test population) in rodents and moderate toxicity when in aerosol form. The LD_{50} results for *C. perfringens* epsilon toxin are based on a mouse *in vivo* injection model, which does not completely mimic a natural infection, and therefore may not accurately represent the human LD_{50}. Additional significant factors in our determination to remove *C. perfringens* epsilon toxin include the absence of known human cases of disease, a lack of human or non-human primate toxicity data, and insufficient new data to indicate that *C. perfringens* epsilon toxin is a significant threat to public health and safety.

Reduction of Conotoxins on the HHS List of Select Agents and Toxins

The term "conotoxin" is used broadly to comprise a very large number of polypeptides isolated from the venom of

fish-hunting marine snails of the *Conus* genus of gastropod mollusks. Many of these molecules are neurologically active in mammals. Although we did not propose the removal for conotoxins, we did receive multiple comments that conotoxins should be removed from the list of select agents and toxins for the following reasons:

- Commenters noted that most components isolated from cone snail venom are harmless to humans; in fact, one of them (MVIIA = Ziconotide = Prialt™) is an FDA-approved commercial drug for the treatment of chronic pain. Several other conopeptides have reached clinical trials at various levels (CVID, Conantokin-G, Contulakin-G, Xe2174 and ACV1 = α conotoxin Vc1.1), and they all show extremely low levels of toxicity to humans.
- Commenters pointed to the fact that the term "conotoxin" can be applied to several hundred thousand compounds found in *Conus* venoms that are not toxic at all to humans is evidence that this designation needs to be revised. Furthermore, the designation of "conotoxins" as select toxins imposes an enormous and unnecessary burden for the development of cone snail-based therapeutics.

Other comments included the following:

- Conotoxins have never been weaponized.
- Conotoxins must be delivered parenterally.
- Conotoxins are difficult to manufacture.
- Conotoxins are not self-replicating.

We agree, in part, with the commenters. Based upon available experimental evidence, most known conotoxins (*i.e.*, "conopeptides") do not possess sufficient acute toxicity to pose a significant public health threat, and many are employed as useful research tools or potential human therapeutics. However, currently available data demonstrate that the sub-class of conotoxins generally called "short, paralytic alpha conotoxins," exemplified by α-conotoxin GI and α-conotoxin MI do possess sufficient acute toxicity by multiple routes of exposure, biophysical stability, ease of synthesis, and availability. Therefore, we have modified the type of conotoxins that are regulated to focus on those that pose a threat to public health and safety. The conotoxins that remain on the HHS list will be limited to the short, paralytic alpha conotoxins containing the following amino acid sequence $X_1CCX_2PACGX_3X_4X_5X_6CX_7$, whereas:

(a) C = Cysteine residues (indicated in bold) are all present as disulfides, with the 1st and 3rd Cysteine, and the 2nd and 4th Cysteine forming specific disulfide bridges;
(b) The consensus sequence includes known toxins α-MI and α-GI (shown above) as well as α-GIA, Ac1.1a, α-CnIA, α-CnIB
(c) X_1 = any amino acid(s) or Des-X;
(d) X_2 = Asparagine or Histidine;
(e) P = Proline;
(f) A = Alanine;
(g) G = Glycine;
(h) X_3 = Arginine or Lysine;
(i) X_4 = Asparagine, Histidine, Lysine, Arginine, Tyrosine, Phenylalanine or Tryptophan;
(j) X_5 = Tyrosine, Phenylalanine, or Tryptophan;
(k) X_6 = Serine, Threonine, Glutamate, Aspartate, Glutamine, or Asparagine;
(l) X_7 = Any amino acid(s) or Des X; and
(m) "Des X" = "an amino acid does not have to be present at this position." For example if a peptide sequence were XCCHPA then the related peptide CCHPA would be designated as Des-X.

The short, paralytic alpha conotoxins containing the following amino acid sequence $X_1CCX_2PACGX_3X_4X_5X_6CX_7$ will be considered a select toxin if the total amount (all forms) under the control of a principal investigator, treating physician or veterinarian, or commercial manufacturer or distributor exceeds 100 mg at any time (Ref 9–13). As such, we have added the definition of regulated conotoxins.

Removal of *Coccidioides Posadasii/Coccidioides Immitis*

We are removing *C. posadasii/C. immitis* from the HHS list of select agents and toxins. We proposed the removal of *C. posadasii/C. immitis* based on the availability of licensed treatments for *Coccidioides* infection and a lowering of our assessment of the impact of *Coccidioides* infection on human health, as indicated by the high proportion of subclinical cases observed in endemic areas (Ref 14). The only comments that we received on this issue were supportive of the removal of *C. posadasii/C. immitis* from the HHS list of select agents and toxins.

Removal of Flexal Virus

We are removing Flexal virus from the HHS list of select agents and toxins. We proposed the removal of Flexal virus based on the lack of severity of disease and the lack of significant outbreaks of disease associated with this virus in humans. The only comments that we received on this issue were supportive of the removal of Flexal virus from the HHS list of select agents and toxins.

Removal of the West African Clade of Monkeypox Virus

We are excluding the West African clade of Monkeypox from regulation under this part, while retaining the Congo Basin clade of Monkeypox. We proposed the retention of Monkeypox on the list of select agents and toxins, but invited comments on removing the West African clade of Monkeypox virus from the list. Monkeypox is closely related to smallpox virus and produces a clinical syndrome similar to that seen with smallpox. Mortality rates associated with Monkeypox infections have been reported to be as high as 17 percent (Ref 15–16). Monkeypox can be separated into two genetically distinct variants called the West African and Congo Basin clades. Clinical and laboratory studies indicate that the Congo Basin clade is significantly more pathogenic to humans and animals than the West African clade (Ref 17–18). The 37 confirmed cases of human Monkeypox associated with the 2003 importation of a West African strain from Ghana into the United States were associated with no case-fatalities and no observed chain of human-to-human transmission. Clinically severe human disease associated with West African strains is rare and this virus clade has not been associated with human mortality (Ref 19). Based on this information, we are excluding the West African clade from regulation under this part, while retaining the Congo Basin clade.

One commenter disagreed with the proposed retention of Monkeypox virus, regardless of clade, as a select agent. We agreed in part with the commenter. As indicated above, we recognize that significant differences in pathogenicity exist between the West African and Congo Basin clades and have determined that viruses of only the Congo Basin clade merit regulation as HHS select agents. We also note that there are published diagnostic tests that differentiate Congo Basin from West African clades (Ref 19).

While the listing found in section 3 (HHS select agents and toxins) will continue to read "Monkeypox", a new subparagraph (d)(5) in that same section, excludes from regulation any West African clade of the Monkeypox virus provided that an individual or entity can verify that the Monkeypox virus is the West African clade.

Removal of South American Genotypes of Eastern Equine Encephalitis Virus (EEEV)

We proposed the removal of South America EEEV genotypes from the list of HHS select agents and toxins and the final rule is consistent with the proposed rule.

One commenter believed that all strains of EEEV should be removed from

the select agent list for the following reasons:

- The commenter noted that EEEV is endemic in Florida, but does not cause human epidemics even with high prevalence in the ecosystem and evidence of natural transmission activity to sentinels.
- The commenter noted that person-to-person transmission does not occur; transmission is only through mosquito bite. An average of only 5 human cases are identified annually in the United States.
- The commenter noted that there is a vaccine available for horses that can prevent disease even if there is ongoing natural virus transmission.
- The commenter noted that states with high endemicity of EEEV often have a state public health laboratory proactive comprehensive arbovirus surveillance program to define risk of human infection. Serum-neutralization assays are an essential part of such a program and require live virus which is needed for test performance. This work is performed at BSL3 level and additional federal regulatory requirements do not add to the safety of handling or storing the virus.
- The commenter noted that genotype analysis to determine if an EEEV strain is a North American or South American genotype is not practical in a state public health laboratory, where the goal is surveillance, not research.
- The commenter noted that this agent is not stable in the environment outside of its natural host (mosquitoes, birds).

We made no changes to the list of HHS select agents and toxins based on this comment. North American EEEV (NA EEEV), genotype strains. which are the strains responsible for human and equine disease, are all genetically very similar to each other (less than 3 percent divergence at the nucleotide level) and can be easily distinguished from South American EEEV (SA EEEV) genotype strains by sequencing. NA EEEV genotype strains differ from SA EEEV by greater than 20 percent at the nucleotide level and approximately 10 percent at the amino acid level. We are aware that EEEV is endemic in Florida, that person-to-person transmission does not occur, that an equine vaccine is available, and that EEEV isn't stable outside of its natural host. Among the factors that we considered in retaining the NA EEEV genotype were that this genotype exhibits high morbidity, high mortality, and has the potential to be weaponized. We also appreciate that public health laboratories focus on surveillance and utilize assays that do not specifically determine which subtype of EEEV is present. However, we believe that the risks posed by the NA EEEV outweigh the practical issues associated with subtype determination. Because the NA EEEV genotype strains are distinctly different from SA EEEV in their genetics, epidemiology, and pathogenicity, we believe that the two genotypes can be distinguished from each other in the laboratory.

While the listing found in section 3 (HHS select agents and toxins) will continue to read "Eastern Equine Encephalitis virus," a new subparagraph (d) (5) in that same section excludes from regulation, any South American genotypes of Eastern Equine Encephalitis virus provided that an individual or entity can verify that the Eastern Equine Encephalitis virus is one of the South American genotypes.

Rickettsia prowazekii and *Rickettsia rickettsii*

The proposed rule retained *R. rickettsii* and *R. prowazekii* on the HHS list of select agents and toxins. The final rule removes *R. rickettsii* and retains *R. prowazekii*.

Commenters argued that *R. rickettsii* and *R. prowazekii* should be removed from the select agent list based on:

- The same rationale used by HHS/CDC to propose removal of Herpes B virus from the HHS select agent list;
- *R. rickettsii* and *R. prowazekii* are readily available in nature, and can be isolated from natural sources such as ticks and flying squirrel lice;
- *R. rickettsii* and *R. prowazekii* are not contagious;
- Human infections due to these agents are capable of being treated with doxycycline, other tetracyclines, and chloramphenicol;
- The bacteria are fastidious obligate intracellular pathogens, thus propagation requires growth in cultured host cells; and
- The inclusion of these rickettsiae on the HHS select agent list will produce no significant improvements in safety for the American public.

After careful consideration of these comments, we agree with the commenters that *R. rickettsii* should be removed from the HHS list of select agents and toxins. Significant factors in our reconsideration include the poor environmental stability of this species, the lack of person-to-person transmission especially in the absence of an appropriate vector, the availability of effective antibiotic treatments, and the difficulty in growing and purifying substantial quantities of these agents *in vitro*. However, we have determined that *R. prowazekii* should be retained as a select agent. This species was investigated as a potential weapon by multiple national offensive programs prior to the Biological Weapons Convention, and has many characteristics of a bioweapon. The infectious dose for *R. prowazekii* is unknown but has been estimated to be as little as 10 organisms (Ref 20). There are currently no licensed vaccines against *R. prowazekii* available for human use in the United States. Until additional studies can be completed to better understand the potential risk of an intentional release of this organism to the public, we have determined to retain *R. prowazekii* on the HHS Select Agent List.

Removal of Shigatoxins and Shiga-Like Ribosome Inactivating Proteins

We proposed the retention of Shigatoxins and Shiga-like ribosome inactivating proteins on the HHS list of select agents and toxins. One commenter asked us to reconsider the retention of Shigatoxins and Shiga-like ribosome inactivating proteins as a select toxin based on the following criteria:

- Introduction of Shigatoxins by the aerosol route has not been reported;
- Shigatoxins are extremely difficult to synthesize in quantities that are toxic to humans;
- Expression of toxin in bacteria is self-limiting due to inhibitory effects on bacterial cells of over-expressed toxin; and
- There are limitations to purification and concentration of Shigatoxins that make them impractical and ill-suited to methods of dispersal that would require large quantities of toxin for delivery by food, water, or air.

We have considered all of the points raised by the commenter and, after additional consultations with subject matter experts, agree that compelling data exist to support the removal of Shigatoxin and Shiga-like ribosome inactivating proteins from the HHS list of select agents and toxins. Therefore, we have decided to remove Shigatoxin and Shiga-like ribosome inactivating proteins from the HHS list of select agents and toxins. Additional significant factors considered in our determination include the difficulty in producing or administering large quantities of toxin via the aerosol route, their poor environmental stability, the lack of significant toxicity seen with oral exposure (which is the route by which an individual becomes intoxicated by Shigatoxin), and the observation that the worst effects seen with intoxication are associated with other pathogenic factors from the Shigatoxin-producing strains of *E. coli*, which are not regulated.

Reduction of *Staphylococcal* Enterotoxins on the HHS List of Select Agents and Toxins

We proposed the reduction of *Staphylococcal* Enterotoxins on the HHS list of select agents and toxins to only include *Staphylococcal* Enterotoxins A, B, C, D, and E. Commenters were concerned that the "incredible simplicity" of obtaining *Staphylococcal* species from environmental sources and screening them for the presence of enterotoxins "utterly neuters" the intent of the select agent regulations to provide security against the misuse of such agents. A commenter requested "CDC to consider alternative regulatory strategies to balance the need of legitimate scientific access to such agents so that it is not harder to use them than for a terrorist."

We made no changes to the HHS list of select agents and toxins based on this comment. Current data based on emesis in non-human primates demonstrates that *Staphylococcal* Enterotoxins A, B, C, D, and E pose a significant threat to public health and safety. In addition, we note that these enterotoxins exhibit significant environmental stability, which contributes to their public health risk. It should be noted that this revision represents a significant reduction of the types of *Staphylococcal* enterotoxins regulated as HHS select toxins.

Reorganization of Tick-Borne Encephalitis Complex Viruses (TBEV)

We proposed the removal of TBEV Central European subtype from the HHS list of select agents and toxins because the TBEV Central European Tick-borne subtype has been shown to be less virulent in humans than the Far Eastern subtype (Ref 21). We also proposed to reorganize the listing of the TBEV to reflect the current nomenclature given by the International Committee on Taxonomy of Viruses. For TBEV proper, there are now just three recognized subtypes: Central European, Far Eastern, and Siberian. The Russian Spring and Summer Encephalitis designation is no longer recognized (Ref 22). Two other viruses on the HHS list of select agents and toxins, Kyasanur Forest Disease virus and Omsk Hemorrhagic Fever virus, are no longer classified as TBEV. In recognition of these taxonomic changes, we proposed to include these viruses on the HHS list of select agents and toxins as follows:

Tick-borne encephalitis virus
Far Eastern subtype
Siberian subtype
Kyasanur Forest disease virus
Omsk Hemorrhagic fever virus.

All comments that we received on this issue were supportive of the removal of TBEV Central European subtype from the HHS list of select agents and toxins and the reorganization of the listing of the TBEV to reflect the current nomenclature.

Retention of *Coxiella burnetii*

We proposed the retention of *C. burnetii* on the HHS list of select agents and toxins. Commenters argued that this agent should be removed because:

- This organism is ubiquitous in the United States, and can be detected in greater than 90 percent of bulk milk tank samples. Despite this, significant human consequences to infection with this agent are rare.
- The organism is readily susceptible to available antibiotics.

While perhaps easily transmitted to humans, the disease caused by this organism is generally mild and self-limiting in humans and does not have a huge economic impact in animals. It therefore does not have the potential to be an effective terrorist weapon. We made no changes to the HHS list of select agents and toxins based on these comments. We recognize that there is a low level of mortality associated with this agent; that it is present in some bulk unpasteurized milk supplies; and that antibiotics are available to treat this disease. However, treatment of chronic Q fever caused by *C. burnetii* requires antibiotic regimens that can last for periods up to several years. This long-term treatment is associated with significant adverse effects and relapse is common upon withdrawal of the treatment (Ref 23). The determination to retain *C. burnetii* on the HHS list of select agents and toxins is based on multiple factors, including its environmental stability, ease of transmission to humans, extremely low infectious dose, high morbidity, its ability to incapacitate large numbers of people, and its prior history of weaponization. Historical records indicate that extensive development occurred in the use of this agent as an incapacitating weapon.

Retention of Diacetoxyscirpenol, Saxitoxin, T–2, and Tetrodotoxin Toxins

We proposed the retention of Diacetoxyscirpenol, Saxitoxin, T–2 toxin, and Tetrodotoxin on the HHS list of select agents and toxins. One commenter recommended the removal of these toxins along with Shiga-like ribosome inactivating proteins, Shigatoxin, Conotoxins, and *C. perfringens* epsilon toxin. This commenter stated that "continuing to include these toxins on the select agent list has unintended consequences such as the U.S. Department of Transportation (USDOT) policies regarding shipment of infectious substances that extends the list to agents, such as *E. coli* that produce these toxins, which results in limiting shipments to public health laboratories."

Although Shigatoxin producing strains of *Escherichia coli* are not subject to the select agent regulations, the removal of Shigatoxin and Shiga-like ribosome inactivating proteins should positively address the commenter's concern regarding the USDOT policies. We do not agree with the commenter that Saxitoxin, T–2 toxin, Tetrodotoxin, and Diacetoxyscirpenol should be removed from the list. Significant factors considered in our determination to retain these toxins are their acute human toxicity, the lack of medical countermeasures or specific antidotes, and the stability of the toxins in a variety of different matrices including foodstuffs.

With respect to the comment expressing concerns about the regulation of *E. coli* strains that produce these toxins, it should be noted that nucleic acids that encode for the functional form(s) of select toxins, if the nucleic acids can be expressed *in vivo* or *in vitro* or are in a vector or recombinant host genome and can be expressed *in vivo* or *in vitro*, are subject to the regulations (*See* § 73.3(c)(2)). We consider it important to regulate *E. coli* strains that have been modified to produce these materials since they are capable of producing significant quantities of select toxins. It should also be noted that *E. coli* strains that do not contain nucleic acids that encode for the functional form(s) of select toxins are not subject to these regulations.

Retention of *Yersinia pestis*

We proposed to retain *Y. pestis* on the HHS select agents and toxins list based on our scientific conclusion regarding the bacterium's high mortality rate, ease of dissemination and production, and person-to-person transmission of *Y. pestis* infections. We received no comments regarding this proposal.

Overlap Select Agents and Toxins

Reorganization of Venezuelan Equine Encephalitis Virus (VEE)

We proposed the removal of VEE subtypes ID and IE from the list of overlap select agents and toxins, with subtypes IAB and IC being retained on the list. Commenters recommended

removing the entire VEE group from the overlap select agent list because they believe that current subtyping assays for the identification of VEE are not sensitive enough to distinguish between these subtypes. One commenter stated that the subtype IC group can arise via a single mutation in the ID group and considering VEE's high mutation rates, an IC subtype can emerge from a laboratory using subtype ID strains. Commenters also noted that there are two vaccines available for humans. In addition, commenters argued that the mortality rate associated with VEE infections via the aerosol route may be very low.

We made no changes to the overlap list of select agents and toxins based on these comments. Straightforward diagnostic molecular techniques, such as sequencing with subtype/variety specific polymerase chain reaction (PCR) primer sets or serological testing with specific monoclonal antibodies, can distinguish between enzootic and epizootic VEE. We also note that based on available data, the emergence of epidemic subtype 1C from subtype 1D is a rare event. In addition, while an equine vaccine is available for VEE, human vaccines are limited in supply and availability.

While the listing found in section 4 (Overlap select agents and toxins) will read "Venezuelan equine encephalitis virus," a new subparagraph (d)(3) in that same section excludes from regulation, any ID and IE serotypes of Venezuelan equine encephalitis virus provided that an individual or entity can verify that the Venezuelan equine encephalitis virus is either the ID or IE serotype.

Retention of *Bacillus anthracis* (Pasteur Strain)

We proposed to designate *B. anthracis* as a Tier 1 select agent. A number of commenters objected to such a blanket designation, arguing instead that the *B. anthracis* Pasteur strain should be exempted from consideration either as a Tier 1 select agent or as a select agent in general.

Commenters argued that because Laboratory Response Network (LRN) laboratories maintain live cultures of non-pathogenic *B. anthracis* Pasteur strain for use in quality control testing, designation of *B. anthracis* as a Tier 1 select agent would have the potential to impact the willingness or ability of LRN laboratories to maintain inventories of *B. anthracis* Pasteur strain due to the perceived regulatory and financial burdens associated with the possession of Tier 1 select agents and toxins. The commenters went on to state that this situation could potentially impact national health and safety given that the potential use of *B. anthracis* spores as a bioweapon remains a viable threat. They also argued that the increased regulatory burdens, particularly on front-line diagnostic laboratories, could lead to an overall decrease in the number of laboratories that would otherwise serve to ensure the LRN has sufficient capacity to detect and respond to a deliberate release of *B. anthracis*.

Commenters stated that the *B. anthracis* Pasteur strain is analogous to the *B. anthracis* Sterne strain, which has already been excluded pursuant to section 4(e) of the select agent regulations because it was determined not to pose a severe threat to public health and safety, animal health, or animal products. The commenters argued that *B. anthracis* Pasteur strain should not be considered as a select agent given that the only way to create an agent that poses a severe threat would be to combine the Pasteur strain with a non-regulated strain. The commenters pointed out that other agents that pose little harm individually, but could be modified genetically to become harmful, are not included on the select agent list because of this potential threat.

Another commenter claimed that the designation of *B. anthracis* Pasteur strain as a select agent would not serve to prevent an authorized person from intentionally or accidentally facilitating the combination of plasmids from Sterne and Pasteur types of strains to create a wild type phenotype. The commenter stated that combining these two strains can be accomplished no matter what sort of physical security may be employed to prevent access, theft, loss, or release of the agent. The commenter concluded that more effective preventive measures can be achieved through training and educating microbiologists on how to avoid accidentally combining these two strains and by penalizing any individuals who intentionally try to combine them.

We only agree in part with the commenters that it does not meet the Tier 1 designation, but do not agree to removing it from the select agent list altogether.

While we agree that the Pasteur strain does not meet the criteria for inclusion as a Tier 1 select agent, we believe that retaining the Pasteur strain as a select agent will allow for continued oversight of laboratories in which the accidental (or intentional) combination of this strain with the Sterne strain could occur to produce the wild type phenotype *B. anthracis de novo*. Failure to retain the Pasteur strain as a select agent could result in an environment in which the probability of creating virulent wild type *B. anthracis* strains by the combination of non-regulated strains would be enhanced. Therefore, we have chosen not to exclude the Pasteur strain from the overlap list of select agents in this rulemaking. We will continue to evaluate exclusion requests as additional information becomes available in this area.

Retention of *Brucella abortus, Brucella melitensis*, and *Brucella suis*

We proposed to retain *B. abortus, B. melitensis*, and *B. suis* on the overlap list of select agents and toxins based on the bacteria's ease of production, high infectivity via the aerosol route, low infectious dose, and lack of brucellosis vaccines currently available for humans in the United States. We received no comments based on this proposal and will be retaining *B. abortus, B. melitensis*, and *B. suis* on the overlap list of select agents and toxins.

Retention of *Burkholderia mallei*

We proposed to retain *B. mallei* on the overlap list of select agents and toxins based on our determination that the bacteria can be easily produced in large quantity and transmitted via the aerosol route. In addition, the mortality rate for untreated cases of glanders is high, and given the rarity of this disease in the United States, experience in the diagnosis and treatment is limited. We received no comments based on this proposal and will be retaining *B. mallei* on the overlap list of select agents and toxins.

Retention of *Burkholderia pseudomallei*

We proposed the designation of *B. pseudomallei* as a Tier 1 select agent. Commenters stated that *B. pseudomallei* should not be a select agent based on the following criteria:

- The criteria by which *Coccidioides* were proposed by HHS/CDC to be removed from the list;
- *B. pseudomallei* is non-communicable from person-to-person;
- *B. pseudomallei* lacks a history of use or development as a successful biologic weapon (as compared with *B. mallei*, a highly pathogenic organism with which *B. pseudomallei* is inappropriately linked in the list);
- *B. pseudomallei* has a low incidence of symptomatic disease following natural infection; and
- The outcome of 99.9 percent of infections with *B. pseudomallei* is asymptomatic infection. Life-threatening illness occurs only in a few

hosts with particular risk factors, particularly renal failure and diabetes.

We disagree with the commenters that *B. pseudomallei* should be removed from the overlap list of select agents and toxins. Significant factors in our determination include the fact that *B. pseudomallei* is as virulent in animal models as *B. mallei, B. pseudomallei* is not endemic in the United States, *B. pseudomallei* has a low infectious dose. *B. pseudomallei* possesses robust environmental stability, and timely diagnosis may be complicated because of the rareness of disease in the United States. In addressing the comment referring to the criteria used to remove *Coccidioides,* we note the availability of licensed treatments for *Coccidioides* infection and a lowering of our assessment of the impact of *Coccidioides* infection on human health as indicated by the high proportion of subclinical cases observed in endemic areas. We do not believe that these factors apply to *B. pseudomallei.* In addition, we note that *B. pseudomallei* is not extensively endemic in the United States as are *Coccidioides* species. Therefore, we are retaining *B. pseudomallei* on the overlap list of select agents and toxins.

B. Tiering of Select Agents and Toxins

On July 2, 2010, President Obama signed Executive Order 13546 "Optimizing the Security of Biological Select Agents and Toxins in the United States" that directed the HHS Secretary to designate a subset of the select agents and toxins list (Tier 1) that presents the greatest risk of deliberate misuse with the most significant potential for mass casualties or devastating effects to the economy, critical infrastructure, or public confidence. In the development of the Tier 1 subset, care was used to balance risks identified in Executive Order 13546 with the Congressional mandate found in the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (42 U.S.C. 262a) to ensure the availability of select agents and toxins for research, education, and other legitimate purposes. Executive Order 13546 also established the FESAP to advise the HHS Secretary on the designation of Tier 1 agents and toxins, reduction in the number of agents on the select agent list, establishment of suitability standards for those having access to Tier 1 select agents and toxins, and the establishment of physical security and information security standards for Tier 1 select agents and toxins. Tiering of the select agents and toxins list will allow for the application of optimized security measures for those select agents or toxins which pose a higher risk to public health and safety. A two-part risk analysis was conducted by the FESAP on each select agent and toxin on the list. First, experts in the biology of these agents and toxins evaluated their "potential for mass casualties or devastating effects to the economy, critical infrastructure, or public confidence." This included assessments of morbidity and mortality, communicability, infectious dose, availability of countermeasures, and estimated economic impact of a potential attack. Second, each agent and toxin was assessed by experts from the DOD, DHS, and Department of Justice (DOJ) for its "risk of deliberate misuse," including its history of weaponization and/or known interest by state or non-state adversaries. In addition, the Federal Select Agent Program also used information obtained from DHS Material Threat Determinations in making final decisions regarding their recommendations as to which select agent or toxin should be designated as Tier 1. These evaluations in combination with (1) input from public comments received in response to the NPRM, and (2) relevant findings in recent government and non-government reports, informed the deliberations on which agents should be designated as Tier 1, as well as those that should be removed from the select agent and toxin list. Agents that scored highly on both the public health and biothreat sets of criteria were judged to be those that met the criteria for Tier 1. We have determined that the following agents should be designated as Tier 1 agents: *B. anthracis,* Botulinum neurotoxins, Botulinum neurotoxin producing species of *Clostridium, B. mallei, B. pseudomallei,* Ebola virus, *F. tularensis,* Marburg virus, Variola major virus, Variola minor virus, and *Y. pestis.*

Commenters questioned why we believe that the current regulations were not sufficient to contain, secure, and protect the proposed Tier 1 select agents and toxins from theft, loss, exposure, or release. In response, we note that the absence of clearly defined, risk-based security measures in the select agent regulations raised concern both by stakeholders within the Executive Branch and outside the government. This is the focus of Executive Order 13486 (Strengthening Laboratory Biosecurity in the United States) and Executive Order 13546 (Optimizing the Security of Biological Select Agents and Toxins in the United States) that call for improvements in select agent security and risk management. The additional security requirements for those entities possessing Tier 1 select agents and toxins will enhance physical security, personnel suitability, and information security within the affected entities.

The commenters further contended that the proposed regulatory changes failed to achieve the goal of minimizing the impact of the regulations on the legitimate uses of select agents and toxins that Executive Order 13546 notes are essential to national security. In response, we note that the overall number of select agents and toxins has been reduced, lessening the overall regulatory burden. In addition, by maintaining a performance-based approach in the regulations, we are allowing regulated entities to develop policies and procedures that meet the new requirements of the regulations while accommodating specific operational aspects of each entity.

Other commenters stated that the proposed tiering system poses significant questions as to the nature of the risk assessment process. Specifically, commenters questioned listing as Tier 1 agents bacterial diseases that are treated with licensed antibiotics, that are not commonly spread person-to-person, and that are present in the environment of the United States; while viruses that have no known therapy and that pose extreme risk to western populations are absent from the Tier 1 list. The commenters believed that the 20 criteria used for evaluation of each select agent and toxin should be made available to the regulated community for review and assessment. We note that the 20 criteria referenced by the commenters were the ones used by the FESAP in providing recommendations to the Federal Select Agent Program. Nevertheless, we agree with the commenters that it is reasonable to publish the criteria used by the FESAP in providing the tiering recommendations to the Federal Select Agent Program. These criteria are:

1. The relative ease with which a select agent or toxin might be acquired from a laboratory or commercial source;

2. The relative ease of production of a select agent or toxin;

3. The relative ease by which a select agent or toxin might be modified in order to enhance its pathogenicity, transmissibility, or ability to evade medical and non-medical countermeasures;

4. The potential for easy deliberate dissemination;

5. The potential for creating disease or illness;

6. The relative environmental stability of a select agent or toxin by itself and how well it survives in the environment

in which it is formulated or disseminated;

7. The amount of select agent or toxin necessary to induce illness;

8. The relative ease with which a particular select agent or toxin might be disseminated or transmitted from one animal or person to another or into the environment where it could produce a deleterious effect upon animal, plant, or human health;

9. Whether the target population has innate immunity to the select agent or toxin or whether immunity has been acquired from a source such as vaccines;

10. The potential for the select agent or toxin to create morbidity (*i.e.*, any non-fatal illness that renders partial dysfunction to an animal or human lasting weeks or months that will eventually resolve with medical, veterinary, and/or supportive care);

11. The burden placed on the human, veterinary, or plant health system by the deliberate release of the select agent or toxin;

12. The ability to detect a release of the select agent or toxin into the environment, food, water, or soil;

13. The ability of the human and agricultural health authorities to accurately and rapidly diagnose and treat the disease presented by a release of the select agent or toxin;

14. The existence of countermeasures to prevent, treat, or mitigate the symptoms of a disease caused by the release of a select agent or toxin and/or its spread through a population;

15. The potential for high animal, plant, or human mortality rates with delivery of medical countermeasures;

16. The potential for high animal, plant, or human mortality rates without delivery of medical countermeasures;

17. The short-term economic impact of a single outbreak of a disease or release of a toxin;

18. The human, monetary, and other resource costs of making an area, building, industrial plant, farm, or field safe for humans, animals or plants to inhabit following the release of the select agent or toxin;

19. The pathogen's ability to persist in the environment or to find a reservoir that makes its recurrence more likely; and

20. The long-term health or economic consequences caused by a single release of the select agent or toxin.

Commenters argued that if there is a "Tier 1" designation of certain select agents and toxins, there logically should be a list of designated "Tier 2" select agents and toxins. We made no changes based on this comment. In designating certain select agents and toxins as "Tier 1," the Federal Select Agent Program considered and rejected the idea of designating the remaining agents as "Tier 2" because the establishment of the Tier 1 category is in no way intended to imply that the agents not designated as Tier 1 pose a lesser risk to public health and safety than they have previously. Further, we believe that the establishment of more varying levels of risk categories would create an increased administrative oversight burden and needless complications for regulated entities.

Various commenters argued that the following select agents should be not be listed as Tier 1 agents: *F. tularensis, Y. pestis, B. mallei, B. pseudomallei,* and *B. anthracis* because these bacteria are all readily found in the environment and treated effectively with antibiotics, such that additional security requirements will have little or no effect on biodefense. Commenters said they recognized that public perception must be taken into account, but they stated a belief that there is little public recognition of many of these bacteria as potential biothreat agents. Commenters stated that *F. tularensis* is not transmissible from one human to another nor does it have either the potential for major human health impact or the potential for a high mortality rate.

Based on the FESAP recommendation using the criteria identified above, we disagree with the commenters that *F. tularensis* should not be designated as a Tier I select agent. Significant factors that we considered include the low infectious dose, the robust environmental stability, and a well-documented history of weaponization associated with this agent.

Commenters stated that *B. pseudomallei* should be not be listed as Tier 1 agent because *B. pseudomallei* is non-communicable from person-to-person, lacks a history of use or development as a successful biologic weapon (as compared with *B. mallei*, a highly pathogenic organism with which *B. pseudomallei* is inappropriately linked in the list), and has a low incidence of symptomatic disease following natural infection. The outcome of 99.9 percent of infections with *B. pseudomallei* is asymptomatic infection. Life-threatening illness occurs only in a few hosts with particular risk factors, particularly renal failure and diabetes.

Based on the FESAP recommendation using the criteria identified above, we disagree with the commenters that *B. pseudomallei* should not be designated as a Tier I select agent. Significant factors in our determination include the fact that *B. pseudomallei* is as virulent in animal models as *B. mallei, B. pseudomallei* is not endemic in the United States, *B. pseudomallei* has a low infectious dose, *B. pseudomallei* possesses robust environmental stability, and timely diagnosis may be complicated due to the rareness of disease in the United States. In addressing the comment referring to the criteria used to remove *Coccidioides,* we note the availability of licensed treatments for *Coccidioides* infection and a lowering of our assessment of the impact of *Coccidioides* infection on human health, as indicated by the high proportion of subclinical cases observed in endemic areas. We do not believe that this applies to *B. pseudomallei.* In addition, we note that *B. pseudomallei* is not extensively endemic in the United States as are *Coccidioides* species. Therefore, *B. pseudomallei* will be listed as a Tier 1 select agent and toxin.

Commenters stated that Botulinum toxin should not be identified as a Tier 1 agent because Botulinum toxin is a non-replicating, non-infectious chemical agent and should not be in the same category as highly contagious biological agents such as *B. anthracis* or un-treatable agents such as the Ebola virus. We made no changes based on these comments. We are aware that Botulinum toxin is a non-replicating and non-infectious toxin. However, the rule seeks to balance the regulatory oversight of agents and toxins that have the potential to pose a severe threat to public health and safety while maintaining availability of these agents and toxins for research and educational activities. Another commenter further argued that Botulinum neurotoxin quantities in excess of 500 microgram (µg) should be designated as Tier 1 toxin, but quantities of less than 500 µg should not be regulated. One commenter questioned the "logic (or science)" behind this decision, particularly when pharmaceutical production facilities possessing greater than 500 µg will be exempt from the new regulations.

We noted that the pharmaceutical production facilities possessing select agent or toxins are currently regulated under select agent regulations. However, products that are, bear, or contain listed select agents or toxins that are cleared, approved, licensed, or registered under any of the laws specified in Section 5(c) and 6(c) of the regulations are exempted from the requirements of the select agent regulations, insofar as their use is only for the approved purpose and meets the requirements of such laws. The exemption would only apply to the final product created from or containing the select agent or toxin. The amount of each toxin that could be possessed

without regulation by a principal investigator, a treating physician or veterinarian, or a commercial manufacture or distributor was determined on the basis of toxin potency and how much one could safely possess without constituting a potential threat to public safety or raising concerns about use as a weapon that would have a widespread effect. The level specified in the rule was determined after consultation with subject matter experts on this toxin. The determination that a toxin posed a severe public health threat was based on the ability for the mass distribution of the toxin for mass casualty purposes. Therefore Botulinum neurotoxin will be placed on the HHS Tier 1 list of select agents and toxins.

Commenters stated that Ebola and Marburg viruses should be removed from Tier 1 because none of the other hemorrhagic fever viruses are in Tier 1, yet they are just as dangerous. We disagree with the commenters and note that the hemorrhagic viruses on the select agent list exhibit distinct differences in morbidity, mortality, transmissibility, and degree of pathogenicity. Therefore our consideration to designate a particular virus as Tier 1 is made on a virus-by-virus basis. Ebola virus and Marburg virus are designated as Tier 1 select agents.

Reconstructed Replication Competent Forms of the 1918 Pandemic Influenza Virus Containing Any Portion of the Coding Regions of all Eight Gene Segments (Reconstructed 1918 Influenza Virus)

One commenter argued that Reconstructed 1918 Influenza virus should be a Tier 1 select agent since it is a pathogenic agent not currently present in any human population and not currently present in any natural environment. The commenter further argued this agent exhibited high transmissibility and high lethality and caused a global pandemic with massive mortality (≥50 million deaths; ≥3 percent of the human population at the time), massive economic impact, and major psychological impact when last present in human populations.

We did not propose to designate Reconstructed 1918 Influenza virus as a Tier 1 select agent and are making no changes to the HHS list of select agents and toxins based on this comment. Recent studies have increased our understanding of the public health risks associated with this agent. Current reports suggest that as much as 60 percent of the population in the United States may have some immunity to the 1918 Influenza virus. We also considered the potential availability of vaccines and antiviral treatments when considering whether to designate this virus as a Tier 1 select agent.

Although we did not designate the Reconstructed 1918 Influenza virus as a Tier I select agent, we retained this virus as a select agent. In retaining this virus as a select agent we recognize that, to the best of our knowledge, the only place the Reconstructed 1918 Influenza virus currently resides is in laboratories. Unlike other influenza viruses, the most likely source of a Reconstructed 1918 Influenza virus outbreak would be as a result of a breach or failure of a laboratory's biosafety or biosecurity program.

Diagnostic Laboratories and Tier 1 Agents

Commenters have expressed concerns about the ability of diagnostic laboratories, such as those in the LRN, to retain their ability to perform diagnostics while meeting the requirements for Tier 1 select agents and toxins. The Federal Select Agent Program recognizes the critical role of diagnostic laboratories in the early detection and response to outbreaks of disease in humans and agriculture. While all of the Tier 1 regulatory requirements will apply to laboratories that maintain permanent stocks of Tier 1 select agents and toxins, laboratories may wish to consider maintaining their proficiency in detecting Tier 1 select agents and toxins through the use of excluded attenuated strains of select agents and toxins that meet their testing requirements. Examples of excluded attenuated strains include: *B. anthracis* strains devoid of the plasmid pX02 (*e.g., B. anthracis* Sterne, pX01+pX02-) (effective 2–27–2003), *F. tularensis* subspecies holartica LVS (live vaccine strain; includes NDBR 101 lots, TSI–GSD lots, and ATCC 29684) (effective 2–27–2003), and *Y. pestis* strains (*e.g.,* Tjiwidej S and CDC A1122) devoid of the 75 kb low-calcium response (Lcr) virulence plasmid (effective 2–27–2003). Possession of an excluded attenuated strain, so long as it has not been subjected to any manipulation that restores or enhances its virulence, would be excluded from the HHS and USDA select agent regulations. Those laboratories encountering a Tier 1 select agent or toxin in their routine work with diagnostic or proficiency testing, would still qualify for the clinical or diagnostic laboratory exemption found in sections 5(a) and 6(a) of the regulations. Should a diagnostic laboratory wish to maintain a select agent identified in a diagnostic sample longer than the seven calendar days currently allowed by the select agent regulations, the diagnostic laboratory can request that HHS/CDC or USDA/APHIS grant additional time before the select agent is transferred or destroyed pursuant to either section 5(a) or section 6(a) of the regulations.

C. Responses to Other Proposed Changes

With respect to the remainder of the sections outlined below, the following changes are based on comments received in response to the NPRM and recommendations from the FESAP. We updated the Web address throughout the document as all information concerning the Federal Select Agent Program is now centralized on the National Select Agent Registry (NSAR) at *http://www.selectagents.gov/.* In addition, HHS/CDC and USDA/APHIS used similar language in our final rules to ensure consistency between the regulations.

Definitions

Occupational Exposure

We proposed to add a definition for occupational exposure based on the definition used in the Occupational Safety and Health Administration (OSHA) regulations found in 29 CFR 1910.1030 (Bloodborne pathogens). Commenters proposed that we not use the OSHA definition since the adoption of this definition would limit possible exposures to select agents only to bloodborne pathogens and to other potentially infectious materials as noted in that standard, but not to occupational exposure to aerosols of the agents in the select agent list. One commenter recommended "a definition, which combines the OSHA bloodborne pathogens standard and the definition of "exposure incident" found in the Bloodborne Pathogen Standard and Exposure Incident (Laboratory) from the Cal/OSHA Aerosol Transmissible Diseases (California Code of Regulations, Title 8, Section 5199), to ensure that both non-aerosol and aerosol exposure events are appropriately addressed that would state "Exposure Incident: Any event which results in (1) an individual experiencing a specific eye, mouth, or other mucous membrane, non-intact skin, or parenteral contact with a select agent or toxin; or (2) an individual experiencing a potential exposure to an aerosolized select agent without the benefit of appropriate exposure controls, and the circumstances of the aerosol exposure make the transmission of a disease sufficiently likely that the individual requires further medical evaluation by a

Physician or other licensed health care professional." We agree with the commenters and are revising the definition to state: "Any reasonably anticipated skin, eye, mucous membrane, parenteral contact, or respiratory aerosol exposure to select agents or toxins that may result from the performance of an employee's duties."

Recombinant and Synthetic Nucleic Acids

We proposed to add the definitions for recombinant and synthetic nucleic acids to the regulations. One commenter stated that the broad definition has implications in all areas of synthetic biology technology, including industrial enzymes, renewable chemicals for pharmaceutical and industrial applications, biobased products, personal care products, renewable specialty chemicals, biofuels, and healthcare products. The commenter argued that the consequences of such a definition could impede the growth of sustainable products from an emerging science such as synthetic biology technology. The commenter recommended that we not adopt the new definitions of recombinant and synthetic nucleic acids as put forth in the proposed rule because the existing language of the regulation is sufficient to cover the uses of synthetic nucleic acids as currently practiced; and furthermore, that the proposed definitions utilize language that was proposed to, but rejected by, the NIH Recombinant DNA Advisory Committee (NIH–RAC). The commenter further argued that if we feel compelled to introduce a new definition, that we follow the leadership of the NIH–RAC and promulgate a simpler definition that is not focused on the underlying mechanism of production of the nucleic acids. We made no changes to the definition based on this comment. The scope of our oversight is limited by the list of select agents and toxins and therefore does not extend to all synthetic biology. We have updated the organization of the definitions of recombinant and synthetic nucleic acids upon consultation with the NIH Office of Biotechnology Activities. The definitions now read as:

- Recombinant nucleic acids. (a) Molecules that are constructed by joining nucleic acid molecules and that can replicate in a living cell (*i.e.*, recombinant nucleic acids) or (b) molecules that result from the replication of those described in (a) above.
- Synthetic nucleic acids. (a) Molecules that are chemically or by other means synthesized or amplified, including those that are chemically or otherwise modified but can base pair with naturally occurring nucleic acid molecules (*i.e.*, synthetic nucleic acids) or (b) or molecules that result from the replication of those described in (a) above.

In addition, we have separated the definition of recombinant and synthetic nucleic acids for clarity.

Restricted Person

We proposed to add the definitions for the following terms in 42 CFR 73.1, to clarify the criteria related to the identification of a restricted person: *Adjudicated as a mental defective, Alien, Committed to any mental institution, Controlled substance, Crime punishable by imprisonment for a term exceeding 1 year, Indictment, Lawfully admitted for permanent residence, Mental institution, Restricted person,* and *Unlawful user of any controlled substance.* Commenters stated that proposed definitions need to be further clarified and are overly restrictive or vague. We agree with these comments and are not including these definitions in this final rule.

Exclusions

We proposed to remove language stating that an attenuated strain of a select agent that had been granted an exclusion because it did not pose a severe threat to public health and safety would be published in the **Federal Register**. We received no comments regarding this proposal. However, one commenter requested clarification regarding previously established exclusions as currently listed on the NSAR at *http://www.selectagent.gov/Select%20Agents%20and%20Toxins%20Exclusions.html.* The commenter stated that individuals should not have to reapply and secure written approval for those attenuated strains that were previously recognized as excluded from select agent status.

In response to this commenter, we note that the language posted on the Federal Select Agent Program Web site at *http://www.selectagent.gov/Select%20Agents%20and%20Toxins%20Exclusions.html* already clarifies that once an attenuated strain of a select agent (or an inactivated select toxin) is determined not subject to the requirements of select agent regulations, the strain or toxin will only be subject to regulation if there is any modification such that virulence is restored or enhanced. Therefore, individuals are not required to reapply and seek written approval for attenuated strains or inactive toxins that have already been determined by the Federal Select Agent Program to be excluded.

As noted earlier, we proposed the removal of the South America genotypes of EEEV and the VEEV subtypes ID and IE. We have also excluded the West African clade of Monkeypox virus. To prevent confusion on how an entity should handle samples that have been determined to be within a general taxonomic classification (*e.g.*, EEEV) but not within a particular genotype or subtype (*e.g.*, NA–EEEV), we have maintained the current general taxonomic listing of HHS and overlap select agents as opposed to listing a specific strain and added an exemption for the strains, subtypes, or pathogenicity levels which are not considered to have the potential to pose a severe threat to public health and safety. With this change, we believe we have clarified that when an agent is initially identified by taxonomic classification it is subject to the select agent regulations until further testing is accomplished to exclude the particular agent by strain, subtype, or pathogenicity level. We believe it is important that laboratories should treat these select agents and toxins as though they must comply with this part until further testing can be conducted to verify whether the agent is indeed an excluded strain, subtype, or pathogenicity level. This change should not have any impact on the exemption for diagnostic laboratories or alter the process of taking in diagnostic samples and forwarding any potentially identified select agents for further testing. It also does not change the reporting criteria for when the agent is confirmed as a select agent. Therefore, we are maintaining the listing of select agents in 42 CFR 73.3(b) to read, Monkeypox virus and Eastern Equine Encephalitis virus, and adding the following criteria to be excluded in 42 CFR 73.3(d)(5): Any South American genotypes of Eastern Equine Encephalitis virus and any West African Clade strains of Monkeypox virus. We are also amending the proposed list of select agents in 42 CFR 73.4(b) to read Venezuelan equine encephalitis virus, and adding the following criteria to be excluded in 42 CFR 73.4(d)(3): Any ID and IE subtypes of Venezuelan equine encephalitis virus.

Toxins

In 42 CFR 73.3(e) and 73.4(e), we proposed to clarify that the "inactive form of a select toxin" may be excluded from regulation since the current term, "attenuated strain of toxin" is scientifically inaccurate. We received comments that were supportive of this

proposed change and will finalize the change in this rule.

We proposed to add 42 CFR 73.3(d)(4) which would state, "An animal inoculated with or exposed to an HHS select toxin." The change allows animals injected with or exposed to a select toxin not to be considered a "select toxin." Therefore, the animals would not need to be housed in a registered space. The change eliminates an unnecessary burden on a registered entity because recovering the toxin from within an animal subject is highly difficult and such removal is unlikely to produce a reasonable yield of recovery. In addition, there is uncertainty as to whether the toxin would remain active when recovered from the animal. For these reasons, it is highly unlikely that once introduced into an animal, sufficient toxin would be able to be recovered to pose a significant hazard to public health. We received comments that were supportive of this proposed change.

One commenter recommended that we clarify that the aggregate amount in § 73.3(d)(3) is per "principal investigator, treating physician or veterinarian, or commercial manufacturer or distributor," and not per entity. We made no changes to the regulations based on this comment because the current regulatory language provides sufficient protections against the unrecognized accumulation of regulated quantities of select toxins at a given entity through multiple procurements of less than threshold amounts by multiple principal investigators within the entity. The same commenter recommended that we amend the regulatory language from "toxin" to "purified toxin." The commenter argued that since there are naturally occurring organisms that produce these toxins, unless they are purified they will pose only a low-level risk to human health. We made no changes to the regulation based on this comment since any HHS select agent or toxin that is in its naturally occurring environment, provided the select agent or toxin has not been intentionally introduced, cultivated, collected, or otherwise extracted from its natural source, is already excluded in section 73.3. The same commenter also recommended that the guidance be clarified to state that there are some select toxin-producing organisms that are not covered under this section of the regulations. Although we agree that there are indeed toxin-producing organisms that are not covered under this section of the regulations, we made no changes to the regulation based on this comment. The regulations clearly state which agents are regulated. Guidance is also available on the select agent Web site (*http://www.selectagent.gov/SyntheticGenomics.html*) and defines the select agents that are regulated.

Due Diligence

We proposed to require that an entity transferring a toxin in amounts which would otherwise be excluded from the provisions in 42 CFR part 73 would be excluded only if the transferor: (1) Uses due diligence and documents that the recipient has a legitimate need (*i.e.*, reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose) to handle or use such toxin; and (2) reports to HHS/CDC if they detect a known or suspected violation of Federal law or become aware of suspicious activity related to the toxin. The majority of our commenters from academic institutions argued that the proposed toxin due diligence provisions did not improve the safety and security of excluded quantities of these toxins. The commenters expressed concerns that if the toxin is being transferred to an individual employed by an entity which clearly has a bona fide research purpose, the laboratory providing the material should not have an obligation to report the transfer. Commenters further requested that the terms, "due diligence" and "legitimate need" be clarified. We made no changes to the regulation based on these comments. The proposed amended regulatory language to require due diligence and the reporting of known or suspected violations of Federal law in this case addresses concerns that an individual may be able to accumulate, unnoticed by anyone, regulated amounts of a select toxin by stockpiling shipments of unregulated amounts. We believe that commercial manufacturers and distributors already track the shipments of toxins as part of their quality management systems. We note that entities registered with the Federal Select Agent Program are already required to maintain records of internal toxin transfers. We are not defining either "due diligence" or "legitimate need" in the regulatory language because we believe both of these terms to be widely used and commonly understood. We would expect that, before transferring any amount of a select toxin, a reasonable person would satisfy themselves that the recipient had a legitimate need for a prophylactic, protective, bona fide research, or other peaceful purpose. We also note that while the transfer has to be recorded, the only report required by the new regulatory language is a report of a transfer believed or suspected to be a violation of law.

Exemptions

Immediate Notification of the Identification of a Select Agent or Toxin Contained in a Specimen Presented for Diagnosis or Verification

We proposed to amend 42 CFR 73.5 and 73.6 to limit the immediate notification requirement to only those select agents and toxins identified as Tier 1 agents and toxins because these agents and toxins present the greatest risk of deliberate misuse with the most significant potential for mass casualties. We received comments that were supportive of this proposed change and we are finalizing this requirement in this rule.

Public Health Emergency

To eliminate an unnecessary burden on any individual or entity responding to a domestic or foreign public health emergency, we have removed the provision that the individual or entity must complete an APHIS/CDC Form 5 to request an exemption. Guidance on requesting an exemption for an individual or entity to respond to a domestic or foreign public health emergency may be found on the select agent Web site at *www.selectagents.gov*.

Responsible Official

Alternate Responsible Official

We proposed to add language to clarify the role of an alternate Responsible Official in order to definitively establish that an alternate Responsible Official must have the full knowledge and authority to act for the Responsible Official in his/her absence. While commenters generally agreed, one commenter argued that the proposed changes would prohibit consultants from serving as an alternate Responsible Official. We are making no changes to the regulation in response to this comment. We first note that in the absence of the Responsible Official, a person who has been designated by the entity as an alternate Responsible Official becomes the entity's Responsible Official. We believe that an individual acting as a consultant would have neither the institutional authority nor responsibility to allow them to serve as an alternate Responsible Official. This does not mean that an entity Responsible Official cannot utilize the services of a consultant in carrying out his or her duties. But the regulations were designed to require an entity to vest authority and responsibility for ensuring compliance with the select

agent regulations in one entity official so that the person can take action in the name of the entity and on behalf of the entity, and not merely provide advice or consultation.

Commenters also recommended that a provision for delegation of responsibilities to an alternate Responsible Official by the Responsible Official should be included, even with the Responsible Official present, so that an alternate Responsible Official would always be acting under the direction/oversight of the Responsible Official. Other commenters felt that it would be practical for the Responsible Official to delegate an alternate Responsible Official who is housed in the remote facility to take on the day-to-day responsibilities of the Responsible Official in that facility. We are making no changes to the regulations in response to these comments because the regulations already provide to the Responsible Official the flexibility to delegate the authority to perform certain tasks. While the regulations allow the Responsible Official as many assistants as he/she needs to ensure compliance with the regulations, the Responsible Official retains the ultimate responsibility for compliance. The regulatory provisions for the appointment of an alternate Responsible Official are in recognition of the fact that, as a practical matter, a single person cannot always be present at an entity. We believe that it is important for each entity to identify the person who has the responsibility for that entity to ensure compliance with the select agent regulations and this approach will help achieve a higher level of compliance than would be obtained from a system of shared responsibility.

Duty Station

We proposed to add a requirement that the Responsible Official's regular place of employment or principal duty station must be located in close proximity to the physical location of the registered entity entered in section 1A of APHIS/CDC Form 1 (Application for Registration for Possession, Use, and Transfer of Select Agents and Toxins). As we stated in the preamble to the proposed rule, we believed that the Responsible Official should have a physical (and not merely a telephonic or audio/visual) presence at the entity to ensure that the entity is in compliance with the select agent regulations and be able to quickly respond to on-site incidents involving select agents and toxins. Commenters generally agreed with the requirement that the Responsible Official's regular place of employment or principal duty station must be co-located with the physical location of the registered entity entered in section 1A of APHIS/CDC Form 1. One commenter recommended that we eliminate the requirement for the definition because the Responsible Official is frequently a high-level administrator at a university, such as a Vice President for Research, and it would be infeasible in many cases for such a Responsible Official, whose duties extend beyond biosecurity, to be physically located at a registered entity; it would only add a layer of bureaucracy, which could detract from a focus on security, to require a second, on-site Responsible Official. We made no changes based on this comment. As noted above, the Responsible Official should be an individual who can perform all of the duties required for that position. The regulations were designed to place responsibility for ensuring compliance with the regulations in one position. However, some commenters requested that we clarify the provision regarding the individual's principal duty station, physical location, and "close proximity with the physical location of the registered entity." In addition, one commenter requested that we explain how quickly the Responsible Official should be able to respond to onsite incidents in terms of turnaround time. Another commenter stated that they were not persuaded that ensuring compliance and a quick response to incidents are sufficient rationale for this requirement.

In response, we are changing the language in section 73.9 to clearly state that the Responsible Official must have a physical (and not merely a telephonic or audio/visual) presence at the registered entity to ensure that the entity is in compliance with the select agent regulations and is able to quickly respond to on-site incidents involving select agents and toxins. We recognize that some entities are located on a campus with several registered laboratories situated in different buildings throughout the campus, and we believe it would be counterproductive to require that the Responsible Official be assigned to each physical laboratory listed on the entity's registration and require a set turnaround time to respond quickly to on-site incidents. However, the Responsible Official should be able to respond in a timely manner to onsite incidents in accordance with the entity's incident response plan. The regulations also contain a performance standard that the Responsible Official is physically located on the campus to ensure day-to-day oversight and compliance with the select agent regulations and to respond to any incident in a way that limits damage and ensures that select agents and toxins are secured and safeguarded.

Responsible Official Training Requirement

We proposed to add a specific requirement that all Responsible Officials possess the appropriate training or expertise to execute their required duties. We received multiple comments and concerns about fulfilling the provisions of this proposed requirement. The breadth and variety of training and expertise available would be difficult to capture in regulatory language. Therefore, we will continue to assess the performance of the Responsible Official based on his or her efficacy in implementing the select agent and toxin regulatory requirements at the entity. As such, we have accepted these comments and have not included this provision in the final rule.

Access to Select Agents and Toxins

Timeframe

We proposed to decrease the maximum length of time in which a Security Risk Assessment (SRA) will be valid from five years to three years in order to more expeditiously identify individuals who may have fallen into one of the prohibited or restricted categories. Commenters argued that our proposal to shorten this time period would increase the work load for individuals, entities, the Federal Select Agent Program, and the Federal Bureau of Investigation (FBI), and would only add bureaucratic expense for all without any source of compensation to the investigators and institutions who are endeavoring to contribute countermeasures against biothreats. Another commenter stated that it would have a significant impact on law enforcement's ability to handle the increased workload to conduct these investigations. One commenter was concerned that there would be delays in SRA approval that would negatively impact workload performance.

We are making no changes to the regulations based on these comments. On January 9, 2009, the President signed E.O. 13486 entitled "Strengthening Laboratory Biosecurity in the United States." This Executive Order established a working group co-chaired by representatives of the DOD and HHS Secretaries. The scope of working group activities pertained to the policy of the United States that facilities that possess biological select agents and toxins have

appropriate security and personnel assurance practices to protect against theft, misuse, or diversion to unlawful activity of such agents and toxins. The working group provided final recommendations through careful consideration of proposals from subgroups and comments received from select agent entities and the public. The report is available at: *http://orise.orau.gov/emi/scapa/files/biosecurity-report.pdf.*

One of the recommendations from the working group to enhance security was to perform the SRA every three years for all individuals with access to select agents and toxins instead of the existing policy of performing the SRA every five years. We concurred with this recommendation. Based on input from the FBI, we have determined that conducting SRA approvals every three years is beneficial in increasing the security of registered entities. As a policy matter, we have been processing SRAs on a three-year basis since June 1, 2011 and an increase in administrative burden has not been noted. We also did not receive any comments from the regulated community that they have experienced any additional burdens. Accordingly, we do not believe this regulatory change will result in an increased burden on registered entities.

Portability

We also proposed to amend the regulations in section 73.10 to add new provisions by which individuals may have access to select agents and toxins at entities other than the individual's "home" entity. One commenter suggested that the Responsible Official, rather than the individual as proposed, make the request to the HHS Secretary or Administrator to approve access to select agents or toxins at another registered entity for a specific period of time. Other commenters requested clarification of the process and suggested that limiting access to only one entity at the time would be appropriate.

In response to these comments, we are amending section 73.10 to provide that "a person with a valid approval from the HHS Secretary or Administrator to have access to select agents and toxins may request, through his or her Responsible Official, that the HHS Secretary or Administrator provide their approved access status to another registered individual or entity for a specified period of time."

One commenter wanted clarification that an individual would have access to select agents at multiple registered entities based on the proposed language. The revised language would allow individuals the flexibility to have access to select agents and toxins at entities other than the individual's "home" entity. To address the commenter's concern that the SRA portability process is unclear, additional guidance has been developed and is available at *http://www.selectagents.gov.*

Security

Animals or Plants Accidentally or Intentionally Exposed to or Infected With a Select Agent

One commenter was unclear regarding whether the security plan should contain procedures concerning animals or plants accidentally or intentionally exposed to or infected with a select toxin. We made no changes to the regulations based on this comment. As we discussed in the preamble for the NPRM, we are not requiring the security plan to address procedures concerning animals exposed to toxins because it is highly unlikely that once introduced into an animal, sufficient toxin can be recovered to pose a significant hazard to public health and safety.

Another commenter wanted to know if the provision was for clinical, veterinary, or environmental laboratories performing diagnostic work to identify a select agent in humans, food or environmental samples. We made no changes to the regulation based on this comment. Any select agent or toxin that is in its naturally occurring environment (*e.g.*, sand samples that are naturally infected with *B. anthracis* or milk samples that contain *C. burnetii*) provided the select agent or toxin has not been intentionally introduced, cultivated, collected, or otherwise extracted from its natural source is already excluded in sections 3 and 4 of the select agent regulations.

Commenters requested that we change the statement of "safeguarding of animals or plants intentionally or accidentally exposed to or infected with a select agent" to read "intentionally exposed to, or infected with, select agents." The commenters suggested that the statement would be clearer. We made no changes to the regulations based on this comment. We believe that animals or plants accidently exposed to or infected with a select agent should be handled as a select agent and safeguarded in the same manner as an animal or plant intentionally exposed to a select agent.

Codification of Current Practices for Shipping, Receiving and Storage

We proposed to codify current practices for shipping, receiving, and storage of select agents and toxins to ensure that regulated entities have consistent regulatory procedures for securing and monitoring the shipment, receipt, and storage of these items. Some commenters stated that codification of current practices for shipping, receiving, and storage are unnecessary and recommended that the provision be deleted. Other commenters recommended that we define and clarify the term "unexpected shipments." We made no changes to the proposed regulation based on the comments since we believe the entity's security plan should have documented processes to ensure select agents and toxins are safeguarded against theft, loss, intentional release or unauthorized access at all times, including when a select agent or toxin is (1) ready to be packaged for transportation, (2) packaged for shipment, or (3) received by a person with approval to access select agents and toxins. These procedures would serve to decrease the chance that such materials would be made available to an unauthorized individual or an individual without a legitimate use for the materials. We also believe that the term "unexpected shipments" is self-explanatory and that an entity's security plan should contain procedures for the handling of unexpected shipments (*e.g.*, when an entity receives a shipment of a select agent that it had neither requested nor coordinated for, and therefore was not expecting).

Information Security

We proposed that the security plans of entities with select agents and toxins must include provisions for information security. Many commenters had questions or concerns regarding the additions to the security plan proposed in section 11(c)(9) of the select agent regulations. The commenters expressed concerns that the requirement represents an added regulatory burden and the impact of this requirement should be evaluated. Other commenters thought that persons having access to information about select agents should not be regulated as having access to the select agents. The commenters further expressed their belief that the proposed language is vague and lacks sufficient direction for securing the information. We agree with the commenters. The purpose of the requirement in question is to clarify section 11(c)(9)(i) of the regulation that requires the entity to have procedures in place for information systems control. This is an overarching requirement that covers electronic [information technology] and non-electronic [hardcopy] information

oversight by the regulated community. Our intent was not to regulate access to experimental data or the results of studies involving select agents and toxins but to regulate access to the select agents and toxins themselves. Therefore, we have revised the language in order to clearly indicate that the information security provisions in question should be for access to an entity's registered space and records pertaining to select agents and toxins, as identified in sections 11 and 17 of this part.

Commenters expressed concerns that the new information security requirements in section 11(c)(9)(ii) would require registration and security risk assessments for all staff managing records pertaining to select agent work. Our response is that this would depend on the individual's duties. If an individual is able to access a select agent or toxin, the individual would need to undergo a security risk assessment. However, if the individual's duties are limited so that he or she would be prevented from accessing the select agents or toxins, then the individual would not need to undergo a security risk assessment.

We anticipate that these requirements are already being met and will merely require entities to document the systems and processes currently in place. The guidance documents developed in conjunction with this rule are, in part, a response to the questions and issues raised by the commenters. Guidance on information security may be found at *www.selectagents.gov*. Issues addressed in the guidance document include, but are not limited to: information technology security, network security, computer security, peripheral devices and data storage, physical security and its application to information security, risk management, and training.

Inventory Verification for Select Agents and Toxins

We proposed more specific minimum security standards for select agents or toxins that included inventory verifications for select agents and toxins. Commenters requested that section 11(e)(4)(ix) be revised to delete the word "all" and clarify that the inventory audits be conducted for only those affected Tier 1 select agents and toxins. We agree with the commenters that the intent of the proposed provision was limited to only those select agents and toxins affected by the triggering event. However, we reevaluated the proposal that would have been limited to only Tier 1 agents and toxins, and based on experience, believe that this provision needs to be applied to all select agents and toxins. Therefore, we have revised the final regulatory language to address inventory verification for all select agents and toxins, by creating a new subparagraph (e) in section 11 which states "(e) Entities must conduct complete inventory audits of all affected select agents and toxins in long-term storage when any of the following occur:

(1) Upon the physical relocation of a collection or inventory of select agents or toxins for those select agents or toxins in the collection or inventory;

(2) Upon the departure or arrival of a principal investigator for those select agents and toxins under the control of that principal investigator; or

(3) In the event of a theft or loss of a select agent or toxin, all select agents and toxins under the control of that principal investigator."

Reference

We proposed to remove the reference in § 73.11(e), "Laboratory Security and Emergency Response Guidance for Laboratories Working with Select Agents" in Morbidity and Mortality Weekly Report (December 6, 2002) because we posted a security guidance document in March 2007 that supersedes this reference. We received no comments regarding the removing of this reference.

Reporting Incidents to the FBI

We proposed to add a requirement that the security plan include procedures for the Responsible Official to immediately notify the FBI of suspicious activity that may be criminal in nature and related to the entity, its personnel, or its select agents or toxins. Commenters stated that this proposal contradicts FBI guidance contained in their "Agricultural, Chemical and Petroleum Industry Terrorism Handbook" and creates a conflict within those entities that have their own recognized law enforcement agencies. Commenters requested justification for this change and clarification on the intent of the requirement. Commenters also argued that the proposed language is unclear and unnecessary. Specifically, commenters asked what constitutes a "suspicious criminal activity"; what is an "entity"; and whether the intent of this proposal is for the Responsible Official to be the designated individual to contact the FBI. We do not believe that there exists any conflict between the security requirements in section 73.11 (Security) of the select agent regulations and the guidance contained in the FBI's "Agricultural, Chemical and Petroleum Industrial Terrorism Handbook." However, where any conflict might exist, the requirements of the federal regulations would supersede guidance. The intent of this requirement is to facilitate the involvement of antiterrorism resources which will increase the security of select agents and toxins. We also believe that the FBI field offices, which are centrally located in major metropolitan areas across the United States, can assist the entity by working closely with them on crime threats. However, we agree with the commenters that it may be appropriate that the notification of suspicious activity first go to the local law enforcement. Therefore, we have changed the language in section 73.11(c)(8) to read: "Describe procedures for how the Responsible Official will be informed of suspicious activity that may be criminal in nature and related to the entity, its personnel, or its select agents or toxins; and describe procedures for how the entity will notify the appropriate federal, state, or local law enforcement agencies of such activity." The guidance document on reporting suspicious activities may be found at *www.selectagents.gov*.

Intrusion Detection System

We proposed more specific minimum security standards for select agents and toxins that included intrusion detection systems. Commenters requested clarification as to what was meant by "intrusion detection system" (IDS) and asked for examples of what constitutes an IDS. They also requested clarification concerning the requirement that "personnel monitoring the IDS must be capable of evaluating and interpreting the alarm." We have made no changes in response to this comment. We believe that the terms are self-explanatory and these types of alarms need to be monitored by personnel who are capable of responding appropriately. However, we are removing the words "prescribe and/or" to clarify the intent of the provision. We have developed guidance that describes IDS as a sensor device or devices which triggers an alarm when a security breach occurs and notifies a response force (*e.g.*, police, guards, etc.) capable of addressing any threat that may be present. This guidance also provides examples of various types of IDS. The guidance document may be found at *www.selectagents.gov*.

Submission of Security Plans

We proposed to amend § 73.11 to require that the entity security plan be submitted for initial registration and renewals of registration. Commenters recommended that we eliminate the proposed requirement, and stated that

this requirement would delay the renewal process and place entities in a "regulatory bind," that the requirement would compromise the "need to know" status of the security plans, and that these documents should remain a protected document made available for review during the site visit only. We made no changes to the regulations based on these comments. Section 11 already has a provision that "the security plan must be submitted upon request." The requirement in question merely codifies our long-standing policy of requesting the security plans for initial registration and the renewal process. We also note that, in practice, the submission of security plans for initial registration and registration renewals has not created a delay in either process.

Security for Tier 1 Select Agents and Toxins

Access Controls to Tier 1 Agents

We proposed specific minimum security standards for access controls to Tier 1 agents in section 11(4)(iii) of the regulations. One commenter stated that these provisions would be difficult for laboratories co-located with other entities. We made no changes to the proposed standards based on this comment. Based on our experience with over 350 entities in a ten-year period, we observed that registered entities have been successful in meeting the current regulatory requirements in a co-located situation, and we have no reason to believe that this will not continue.

Back-Up Power for Tier 1 Select Agents and Toxins

We proposed more specific minimum security standards for Tier 1 agents that included the provision of back-up power. Commenters requested clarification regarding whether the back-up power requirement would only apply to registered spaces or whether it would include the entire entity or building that houses the registered space. Commenters recommended adding the phrase "for the registered space" into this section. We agree with the commenters and have revised the language accordingly.

Another commenter stated that the provision should remain a recommendation not a requirement. Although we believe back-up power for information security networks is an essential component for the safeguarding of Tier 1 agents against unauthorized access, theft, loss, or release during power outages, further consideration led us to alter the nature of this requirement. Rather than focusing on power/electricity alone, we have clarified the requirement in order to address the importance of having comprehensive back-up procedures in the event of a system failure. These procedures may include, but are not limited to, provisions for back-up power.

Security Enhancements for Tier 1 Select Agents and Toxins

We proposed specific minimum security standards for Tier 1 select agents or toxins. Commenters requested guidance and a timetable of when the security upgrades need to be addressed. In this final rule, we have included a phase-in period for the effective date for certain requirements which should allow entities sufficient time to comply without causing disruption or termination of research or educational projects. As noted in the "Effective Dates" portion of this document, one hundred and eighty days after the publication of the final rule, entities will need to be in compliance with new provisions outlined in section 11 (Security). In addition, we have developed guidance to assist entities with security enhancements for Tier 1 agents.

Other commenters stated that the proposed rule included more specific minimum security standards for Tier 1 select agents and toxins and requested that we identify criteria for stratifying security requirements, making them risk-based and considering the type of work performed at the facility. The commenters also argued that the additional regulations for Tier 1 agents and toxins will create more responsibilities for the entity and require more resources to meet these requirements. While we are in general agreement with these concerns, we note that entities possessing Tier 1 agents and toxins are already meeting these requirements. In addition, we have developed guidance to assist entities with security enhancements for Tier 1 agents, which may be found at *www.selectagents.gov*. Therefore, we are making no changes to the minimum security standards as proposed in the NPRM.

Suitability Assessment for Access to Tier 1 Select Agents and Toxins

We proposed specific minimum security standards, including personnel suitability assessments, for access to Tier 1 select agents and toxins. Many commenters had questions or concerns regarding these additional requirements, as described in section 11(f) of the proposed rule. Specific additions addressed by the commenters included: Pre-access suitability assessments, ongoing suitability assessments, and self- and peer-reporting of incidents or conditions that could affect an individual's ability to safely have access to or work with Tier 1 select agents and toxins. Commenters generally divided into two groups in their response to the proposed additions. Some felt that the requirements were too vague to prove useful and the requirements created administrative burden without improving the overall security of Tier 1 select agents and toxins. Others felt that the requirements could or would require entities to behave in a manner contrary to local laws, privacy laws, or union contracts. Commenters also felt that the proposed language, "individuals with access approval to select agents and toxins are trustworthy and behaving in a manner that upholds public health and safety, security, and the integrity of the scientific enterprise" were subjective standards that would be difficult to enforce. We agreed with the commenters and revised the language in the final rule to read that the security plan must contain procedures that will limit access to a Tier 1 select agent or toxin to only those individuals who are approved by the HHS Secretary or Administrator, following a security risk assessment by the Attorney General, have had an entity-conducted pre-access suitability assessment, and are subject to the entity's procedures for ongoing suitability assessment.

We anticipate that these requirements are already being met at many registered entities and will merely require those entities possessing a Tier 1 select agent or toxin to formalize and document the systems and processes currently in place. Therefore, we do not believe the registered entities possessing a Tier 1 select agent or toxin will endure additional significant costs for suitability assessments. We believe that many of the specific concerns raised by commenters regarding potential violation of laws or union contracts arose as a result of the commenters' examination of the FESAP November 2, 2010 document entitled "Recommendations Concerning the Select Agent Program." As a matter of clarification, the Federal Select Agent Program considered the FESAP recommendations as well as recommendations from other sources (*e.g.*, the National Science Advisory Board for Biosecurity, the National Research Council, and the EO 13486 Working Group), in developing the proposed rule provisions addressing personnel suitability. While we have created specific guidance regarding this

section of the revised rule, we are leaving the regulations in their broadly-written state in order to provide entities with flexibility in meeting these requirements. Given our experience with the select agent regulations and the wide variety of regulated entities those regulations cover, we have found this to be the most effective approach. The personnel suitability guidance document developed in conjunction with this rule is, in part, a response to the questions and issues raised by the commenters. Issues addressed in the guidance document include, but are not limited to:

(1) Understanding the potential for insider threat;

(2) Understanding the needs for suitability assessments;

(3) Delineating the roles and responsibilities of individuals to ensure optimal security;

(4) Requesting information about individuals in a standardized manner and assessing individuals in the context of safety and security;

(5) Responding to reports in a consistent, prompt, and confidential manner;

(6) Providing training for recognizing and reporting suspicious behavior.

Full guidance on suitability assessments may be found at *www.selectagents.gov*.

One commenter requested an exclusion or exemption clause for entities that are registered to possess Tier 1 select agents or toxins, but do not possess them. We made no changes to the regulations based on this comment. Entities that are registered to possess, use or transfer select agents and toxins must meet all of the regulatory requirements, regardless of whether or not they actually possess these materials.

Security Training for Access to Tier 1 Select Agents and Toxins

We proposed specific minimum security standards, including security training, for those individuals who would have access to Tier 1 select agents or toxins. Commenters requested clarification whether training of "all entity employees" mentioned in section 11(e)(2)(ii) meant everyone in the facility or those "Security Risk Assessment-approved employees." We agree with the commenters and have revised the language in the regulations to clarify that the training is for employees with access to Tier 1 select agents and toxins.

Three Barriers for Tier 1 Select Agents and Toxins

We proposed specific minimum physical security standards for Tier 1 select agents or toxins that included a requirement for three barriers protecting access to these materials. Commenters requested clarification regarding what was meant by "barrier" and asked for examples of what constitutes as a barrier. They also requested clarification concerning the word "delay" since, according to the commenters, the word does not seem to describe the needed function.

We agree with the commenters that the word barrier needed further explanation and, in the definitions section in § 73.1, we have defined the term "Security barrier" as a physical structure that is designed to prevent entry by unauthorized persons. In addition, we have revised the language in this section to more clearly articulate that entities possessing Tier 1 select agents and toxins must have a minimum of three security barriers where each security barrier adds to the delay in reaching secured areas where select agents and toxins are used or stored. One of those security barriers must be monitored in such a way as to detect intentional and unintentional circumventing of established access control measures under all conditions (day/night, severe weather, etc.). The final barrier must limit access to the select agent or toxin to personnel approved by the HHS Secretary or Administrator, following a security risk assessment by the Attorney General.

Other commenters believed that the proposed requirement represents an added expense. Although we agree that there are expenses associated with the implementation of security measures, we do not anticipate that significant additional expenditures will be necessary for registered entities already possessing Tier 1 select agents or toxins. We have developed guidance to assist entities with the security barrier requirement, which may be found at *www.selectagents.gov*.

Response Time for Tier 1 Select Agents and Toxins

We proposed specific minimum security standards, including a response time for security forces or local police that could not exceed 15 minutes from the time of an intrusion alarm or report of a security incident in section 73.11(e)(4)(viii), for possessors of Tier 1 select agents and toxins. Commenters questioned why a 15 minute response time was chosen. Commenters also inquired whether there would be any penalties if local law enforcement exceeds 15 minutes with their response time. In addition, commenters stated that the proposed definition of response time is unclear. One commenter recommended that we revise the provision to read "Response time for security forces or local police must not exceed 15 minutes from the time of alerting the designated force."

Based on the comments received, we have modified the language of this section. While retaining a 15-minute response time goal for security forces or local police, we have provided flexibility for entities to develop systems in line with the optimal achievable response time in their area by revising the language to read: "The entity must: (A) Determine that the response time for security forces or local police will not exceed 15 minutes or (B) Provide security barriers that are sufficient to delay unauthorized access until the response force arrives in order to safeguard the select agents and toxins from theft, intentional release, or unauthorized access. The response time is measured from the time of an intrusion alarm, or report of a security incident, to the arrival of the responders at the first security barrier."

Our selection of the 15 minute response time metric is based on DOD and DHS standards for high value assets (*e.g.*, MD Number 11046 (Open Storage Area Standards for Collateral Classified Information), Department of Homeland Security Management Directive System MD) and also on our analysis of incident response plans provided by registered entities since 2003. The response time is measured from the time of an intrusion alarm, or report of a security incident, to the arrival of the responders at the first security barrier. A response is a force capable of interrupting a threat and may be unarmed guards, armed guards, or local law enforcement.

Security Requirements for Variola Major Virus or Variola Minor Virus

In recognition of the special public health risks associated with Variola major virus and Variola minor virus, we proposed to require additional physical security measures over and above those proposed for Tier 1. Commenters were concerned about listing the Variola major virus (smallpox virus) as a Tier 1 agent, given the stringent conditions already in place for its handling and tracking. The commenters recommended an alternative approach might be to designate the smallpox virus as a pathogen with very special handling requirements, given that smallpox has been officially eradicated worldwide.

We made no changes to the regulations based on the comment. We believe that setting up a different special class of standards for one pathogen would needlessly increase the complexity of the regulatory provisions without any benefit of increased security. The requirements designated for Tier 1 agents were meant for those select agents and toxins that present the greatest risk of deliberate misuse with the most significant potential for mass casualties or devastating effects to the economy, critical infrastructure, or public confidence. As such, Variola major virus and Variola minor virus meet that criterion. We also note that Variola major virus is a special case and that there are additional, specific requirements for Variola major virus in addition to the Tier 1 requirements. These specific requirements for Variola major virus and Variola minor virus do not apply to the other Tier 1 agents.

One commenter requested clarification that requirements are not applicable to diagnostic laboratories that may identify Variola major virus or Variola minor virus during the course of routine work, but would not otherwise "possess" these agents. We made no changes to the regulations based on this comment. We note that the clinical and diagnostic laboratory exemption found in section 5 of the regulations, including all of the reporting and safeguarding requirements, remains in effect.

Since the publication of the proposed rule, we became concerned that the proposed requirement for all persons with access to the Variola major or Variola minor virus to have a Top Secret clearance would have the unintended effect of preventing HHS/CDC researchers from being able to participate in collaborative work with international colleagues, such as representative of the World Health Organization. To address this concern, we have decided to modify the requirement to require only personnel with independent unescorted access to Variola major or Variola minor virus to have a Top Secret security clearance. The requirements that any access to Variola major or Variola minor would require approval from HHS/CDC and the approval of the Federal Select Agent Program would remain in effect.

Biosafety Plan

One commenter was concerned that specifying the "Biosafety in Microbiological and Biomedical Laboratories" (BMBL) (Ref 28) publication in the regulatory text would in effect incorporate the document by reference and therefore the BMBL should be published in the **Federal Register** for public comment. We made no changes to the regulations based on this comment. The BMBL has not been incorporated by reference. The regulation clearly states that an individual or entity should "consider" the BMBL when developing a site specific biosafety plan. The BMBL is listed in the regulations because it provides useful guidance for how to work safely with a variety of pathogens. It also describes standard and special microbiological practices, safety equipment, and facilities (constituting Biosafety Levels 1–4). It is the document that is generally recognized as the national biosafety standard in the United States.

Another commenter recommended that we clarify features of containment infrastructure intended to facilitate biosafety of workers dealing with these materials. The commenter recommended the regulatory language read "The biosafety plan must contain sufficient information and documentation to describe the biosafety, physical and operational containment requirements for working with the select agent or toxin including any animals or plants intentionally or accidentally exposed to or infected with a select agent." We made no changes to the regulations based on this comment since we believe the proposed language is clear and sufficient.

Another commenter recommended we remove the statement: "The occupational health program may also be made available to individuals without access to Tier 1 select agents and toxins." We agree with the commenter and have eliminated that portion of the regulatory text.

Occupational Health Program

We also proposed that the biosafety plan must include provisions for the implementation of an occupational health program for individuals with access to Tier 1 select agents and toxins. Many commenters had questions and/or concerns regarding the addition of a requirement for an occupational health program. Commenters generally divided into two categories in their comments. Some commenters felt that the requirement was too vague to prove useful and that the requirement created an administrative burden without improving the overall biosafety of Tier 1 select agents and toxins. Other commenters indicated that the requirement could or would require entities to behave in a manner contrary to Health Insurance Portability and Accountability Act of 1996 (HIPAA). Commenters also felt that a preventive health and post-exposure program is already available at registered entities and should not be a requirement in the regulations. We made no changes based on these comments.

While the select agent regulations do not supersede HIPAA, HIPAA does not prevent the requirement of the establishment of an occupational health program to address biosafety concerns for those handling select agents and toxins.

We anticipate that this requirement is already being met and will merely require those entities possessing a Tier 1 select agent or toxin to codify and document the systems and processes currently in place. Therefore, we do not believe registered entities possessing a Tier 1 select agent or toxin will endure significant additional costs associated with an occupational health program. While we have created specific guidance regarding this section, we are leaving the specifics of the occupational health program as performance-based standards in order to provide entities with flexibility in meeting these requirements. We have found this to be the most effective approach given the wide variety of regulated entities these regulations cover. Full guidance on an occupational health program may be found at *www.selectagents.gov.*

Restricted Experiments

We proposed to add language in order to expand the "restricted experiment" approval requirement to include all experiments involving the creation of drug resistant select agents that are not known to acquire that resistance naturally, if such acquisition could compromise the control of disease agents in humans, veterinary medicine, or agriculture regardless of the method or technology used to create the resistance. Previously, the restricted experiment language concerned only those experiments involving recombinant nucleic acids.

The restricted experiment definition currently covers the "deliberate transfer of a drug resistance trait to select agents that are not known to acquire the trait naturally, if such acquisition could compromise the use of the drug to control disease agents in humans, veterinary medicine or agriculture." We have removed the phrase "use of the drug" and modified the language in the last sentence to read "deliberate transfer of a drug resistance trait to select agents that are not known to acquire the trait naturally, if such acquisition could compromise the control of disease agents in humans, veterinary medicine or agriculture." We made this change because while the introduction of a drug resistance trait would normally

eliminate that drug as a therapeutic option to control the disease, there may be alternative drugs available to control the disease. Therefore, the new definition reads as follows: Restricted experiments are defined as: "(1) experiments that involve the deliberate transfer of, or selection for, a drug resistance trait to select agents that are not known to acquire the trait naturally, if such acquisition could compromise the control of disease agents in humans, veterinary medicine, or agriculture;" and "(2) experiments involving the deliberate formation of synthetic or recombinant nucleic acids containing genes for the biosynthesis of select toxins lethal for vertebrates at an LD[50] < 100 ng/kg body weight."

It should be noted that restricted experiments are not prohibited experiments. However, an entity must seek permission prior to the initiation of a restricted experiment and receive approval from the Administrator or HHS Secretary. Approval for the performance of a restricted experiment or the possession of a product of a restricted experiment may involve meeting additional safety and/or security requirements as prescribed by the Federal Select Agent Program. Many experiments that involve the deliberate transfer of a drug resistant trait do not meet the definition of a restricted experiment because the drug is not used to control disease in humans, veterinary medicine, or agriculture. The Federal Select Agent Program encourages anyone who intends to conduct a select agent experiment utilizing drug resistance markers to submit that experiment for review so that they can be advised on whether the experiment would be considered a restricted experiment and require approval prior to its initiation.

One commenter stated that "denial of restricted experiments is an obstacle to the development of countermeasures instead of promoting real biosecurity." We made no changes based on this comment. As mentioned previously, many experiments that involve the deliberate transfer of a drug resistant trait to a select agent do not meet the definition of a restricted experiment because the drug is not used to control disease in humans, veterinary medicine, or agriculture. The rationale for requiring a heightened review of experiments that involve introduction of a drug resistant trait to a select agent for therapeutically useful antibiotics is ultimately out of concern that what is made in the laboratory might not always remain in the laboratory and therefore present a public health or agricultural risk. For experimental protocols utilizing transient drug resistant traits, it should be noted that mutants possessing those traits can be maintained without removal of the trait and therefore pose a potential risk to public health or agriculture. We therefore consider these protocols to fall under the restricted experiment section of the regulations.

Commenters also suggested aligning the restricted experiment language with the "NIH Guidelines for Research Involving Recombinant DNA Molecules" (NIH Guidelines) language that restricts and requires approval for experiments with pathogens involving drug resistance for therapeutically useful agents against that pathogen. We made no changes based on these comments. The definition of a restricted experiment is aligned with the NIH Guidelines and reads as "* * * select agents that are not known to acquire the resistance naturally, if such acquisition could compromise the control of disease agents in humans, veterinary medicine, or agriculture." We have not expanded the definition to include the introduction of all drug resistant traits to a select agent but only to those traits used to control disease in humans, veterinary medicine, or agriculture.

Incident Response

One commenter argued that since the incident response plan must fully describe the entity's response policies or procedures for failure of intrusion detection or alarm system, the Federal Select Agent Program should provide clarification as to what was meant by an intrusion detection system (IDS) and examples of what constitutes IDS. We have developed guidance that describes IDS as a sensor device or devices which triggers an alarm when a security breach occurs and notifies a response force (*e.g.*, police, guards, etc.) capable of addressing any threat that may be present. This guidance also provides examples of various types of IDS. The guidance document may be found at *www.selectagents.gov.*

One commenter recommended that instead of using the word "etc." in section 14(b) they recommended that the section state, "* * * and emergencies such as fire, gas leak, explosion, power outage, and other natural and man-made events." We agreed with the commenter and revised the language.

While we did not propose any changes to section 73.14 (c)(6), a commenter recommended that the language regarding planning and coordination with local emergency responders be amended. Specifically, the commenter believed that biosafety, as opposed to biosecurity needs, would be better addressed if this provision read as follows: "* * * emergency responders, including local public health authorities." We made no changes to the section based on the comment since the proposed language would limit the concept to only public health authorities and not agricultural health. Emergency responders can also include police, fire and rescue service, and emergency medical service.

Training

We proposed to specify that the Responsible Official ensure maintenance of training records since there was no particular person designated as the entity's required record keeper, only that a training record must be kept. We received no comments regarding this proposal.

We proposed to amend the regulations in 42 CFR 73.15 that contain provisions of mandatory training for staff and visitors who work in or visit areas where select agents or toxins are handled or stored to provide security awareness and incident response training. Commenters requested clarification concerning the required annual insider threat awareness briefings for those entities possessing a Tier 1 select agent or toxin as proposed in section 15(b) of the select agent regulations. The commenters asked that the content of these threat awareness briefings be made available to public health laboratories so that it could then be specifically customized for various regions of the country and include what are the minimum requirements, who the intended audience is, and what documentation will be needed to satisfy the requirement.

While we have created specific guidance regarding this section of the revised regulations, the guidance does not take the form of a prescriptive program. Given our experience with the select agent regulations and the wide variety of entities those regulations cover, we have found a broader approach to be most effective. The guidance documents developed in conjunction with this rule are, in part, a response to the questions and issues raised by the commenters. The document regarding annual insider threat awareness briefings includes a designated person to manage the assessment of laboratory personnel, laboratorian involvement in threat mitigation, and behaviors of concern as specific examples of best practices that we believe entities would be well served in adopting. Full guidance on this and other issues may be found at *www.selectagents.gov.*

One commenter proposed that the requirements for incident response training should remain as currently written to only include safety incident training via annual blood-borne pathogens, general safety, biological hygiene, chemical hygiene, and lab specific select agent training. We made no changes to the proposed requirement based on this comment because we believe that incident response training needs to be expanded so that personnel are trained in how to safeguard select agents and toxins during natural emergencies and man-made disasters.

Commenters requested clarification that refresher training would only be mandated when substantive changes are made to the plans including what level of retraining would be required and whether retraining would only be required for those areas of the plan that have been amended. We made no changes to the proposed requirements based on these comments. We believe that the regulatory language clearly states that training will need to be provided when significant processes are changed in the plan and that training will need to be provided to those individuals who are affected by these changes in the plan.

One commenter recommended that we consider the staff time it will take for visitor training. We made no changes to the proposed requirement based on this comment. First, we believe that it is very important that visitors receive the appropriate incidence response and security awareness training to protect their personal safety while in registered areas. We do not believe that the staff time needed to fulfill this requirement will cause a significant increase in time and effort when integrated into the current visitor training program.

One commenter requested clarification on the refresher training of escorted personnel and visitors because the commenter believed that refresher training is only required once a year, but does not happen with visitors or escorted personnel. We agreed with the commenter and have revised the language to read: "Refresher training must be provided annually for individuals with access approval from the HHS Secretary or Administrator or at such time as the registered individual or entity significantly amends its security, incident response, or biosafety plans."

Transfers

We proposed to clarify when "transportation in commerce" begins and ends to better allow registered entities to adequately address those situations when a select agent or toxin is (1) ready to be packaged for transportation, (2) packaged for shipment, or (3) received and handled by a person with approval to access select agents and toxins. One commenter stated that the security of the package between steps (2) packaged for shipment and (3) received and handled by a person with approval to access select agents and toxins should be the sole responsibility of the courier. We made no changes to the language based on this comment. As stated in the preamble to the proposed rule, "transportation in commerce" begins when the select agent(s) or toxin(s) are packaged for shipment and ready for receipt by a courier and ends when the package is received by the intended recipient who is an individual approved by the HHS Secretary or Administrator to have access to select agents and toxins, following a security risk assessment by the Attorney General.

Commenters believed that the new provision outlined in section 16(f) meant that all transfers must be made by an individual approved by the HHS Secretary or Administrator to have access to select agents and toxins, following a security risk assessment by the Attorney General. We agreed with the commenters and revised the language to state that after authorization is provided by USDA/APHIS or HHS/CDC, the packaging of the select agent(s) and toxin(s) is performed by an individual approved by the HHS Secretary or Administrator to have access to select agents and toxins and is in compliance with all applicable laws concerning packaging.

Records

We proposed to clarify the current language that an accurate, current inventory needs to be maintained for each select agent that the entity possesses including synthetic select agent organisms and any animals or plants intentionally or unintentionally exposed to or infected with a select agent (including number and species, location, and appropriate disposition). Commenters argued that counting individual vials of replicating biological agents is costly, burdensome, and a major source of frustration for investigators. They further claimed that there is widespread concern that both counting vials and measuring volumes of individual vials are not effective means of increasing security and wondered if there was another way to account for inventory. Other commenters noted that animals infected with a select agent are part of ongoing experimentation and are thus part of working stocks rather than current inventory and requested clarification on whether or not the term "animal" also included "arthropods."

We are making no changes to the regulations based on these comments. While we are aware of the burden resulting from the requirement to maintain an accurate and current inventory of each select agent and toxin held in long-term storage, we believe this is an essential element to establish security of select agents or toxins. We recognize that it may still be possible for an insider to steal a sample of an agent either from working stock or from an inventory without being detected. However, if an entity has a robust inventory management system, such incidents have a better chance of being detected. To assist registered entities in meeting the requirements for accurate inventories of materials in long term storage, we have developed guidance that may be found at *www.selectagents.gov*.

It should be noted that while the volume measurements the commenter references are required for inventories of select toxins, they are not required in the case of inventory of select agents held in long-term storage due, in part, to the points raised by the commenter. However, we disagree with the commenter's assessment that measuring volume in the case of select toxins and counting vials in general, as part of required inventory tracking of both select agents and toxins for registered entities, is not necessary.

We recognize that there has been some confusion between those infected animals (including arthropods) and plants considered to be "working stock" and those considered to be "inventory held in long term storage." To that end, we have developed specific guidance that will enable entities to better differentiate between these two categories. This guidance is available at *www.selectagents.gov*.

In order to clarify our intent regarding "working stock" and "inventory held in long term storage," as it relates to infected animals and plants, we are revising paragraph (a)(2) in section 17 of the select agent regulations to require an accurate, current accounting of any animals or plants intentionally or accidentally exposed to or infected with a select agent (including number and species, location, and appropriate disposition) instead of an accurate, current inventory of those animals or plants.

One commenter had concerns about tracking nucleic acids for laboratories, which generate bacterial mutants and perform reverse genetics. The commenter believed that this would be

incredibly time consuming, overly burdensome, and of no value. The commenter argued that the theft of viral genetic elements would be less useful to a person without scientific expertise and unnecessary for the individual with the skills.

We made no changes to the regulations based on this comment. It should be noted that not all recombinant material is regulated. The scenarios described by this commenter would not involve regulated nucleic acids. For example, bacterial genomes and viral genomes not determined to be infectious are not subject to these regulations. Additional guidance on this topic is available at *www.selectagents.gov*.

Administrative Review

We proposed to amend the regulations in 42 CFR 73.20 that addresses the administrative review of an individual or entity's denial, revocation, or suspension of registration or access approval. Specifically, we proposed to modify the current regulations in order to allow individuals more time to gather the necessary components of their appeal following the denial, limitation, or revocation of access approval. In addition, we proposed to remove the provision "Where the denial, revocation, or suspension of an individual's access approval is based upon identification by the Attorney General, the request for review will be forwarded to the Attorney General" to provide clarification that the decision regarding the appeal is determined by the HHS Secretary. We received comments supporting these proposed changes.

Guidance Documents

In the proposed rule, we specifically requested comment from the regulated community and any other interested persons on the need for and desirability of guidance documents that would serve to assist regulated entities in meeting the requirements of regulations. We were particularly interested in public comment regarding Web sites, articles, or other sources that may be useful in developing such guidance documents. We received a number of comments on the issue of guidance which are discussed below. As these comments pertain to the development of guidance documents and not to the regulations themselves, we have made no regulatory changes as a result. Guidance documents may be found at *www.selectagents.gov*.

Commenters stated that further sources of information, apart from interaction with Federal Select Agent Program inspectors, should be made available to assist regulated entities in implementing the additional requirements. Other commenters urged that we develop guidance as a collaborative effort with a variety of subject matter experts both inside and outside the government.

We agreed with these comments and consulted with a wide variety of contributors including HHS and USDA subject matter experts, a National Science Advisory Board for Biosecurity report entitled "Enhancing Personnel Reliability among Individuals with Access to Select Agents" (Ref 24), the National Academies Committee on Laboratory Security and Personnel Reliability Assurance Systems for Laboratories Conducting Research on Biological Select Agents and Toxins report entitled "Responsible Research with Biological Select Agents and Toxins" (Ref 25), the Report from the Executive Order 13486 Working Group on Strengthening Laboratory Security in the United States (Ref 26), and a report from the Defense Science Board Task Force on Department of Defense Biological Safety and Security Program (Ref 27).

There exist a variety of ways for regulated entities to obtain information from the Federal Select Agent Program. HHS/CDC and USDA/APHIS may be contacted via email at *lrsat@cdc.gov* or *Agricultural.Select.Agent.Program@aphis.usda.gov*, respectively. Guidance is also available at *www.selectagents.gov*. The Federal Select Agent Program issues periodic email updates, which are sent to Responsible Officials and alternate Responsible Officials at all registered entities. We also hold workshops on various topics of concern to the regulated community. Examples of past workshops have discussed personnel reliability programs, security plans, preparing a registration package, and the inspection process.

Miscellaneous

Coordination Between USDA/APHIS and HHS/CDC

One commenter expressed general support for the harmonization of APHIS and CDC select agent regulations. The commenter stated that such coordination could be further achieved via joint inspections of registered entities. We are making no changes as a result of this comment since it is outside the scope of this rulemaking.

The commenter further stated that language and definitions used in the USDA/APHIS and HHS/CDC regulations should be consistent, citing HHS/CDC's use of the term "biosafety" in 42 CFR 73.12 as compared to the term "biocontainment" found in USDA/APHIS's regulations in 7 CFR 331.12.

Since the Federal Select Agent Program is jointly administered by USDA/APHIS and HHS/CDC, we make every effort to achieve congruence between our various regulations. In certain cases, as a result of the differences between plant, animal and human select agents and toxins, the terminology employed must necessarily differ. The term "biocontainment" is found in the USDA/APHIS regulations in 7 CFR 331.12 relating to Plant Protection and Quarantine (PPQ) select agents and toxins while the term "biosafety" is found in the USDA/APHIS regulations in 9 CFR 121.12 relating to Veterinary Services (VS) select agents and toxins. "Biosafety" is the accurate term to describe procedures relating to humans or animals. However, the term "biocontainment" is more appropriate for describing procedures necessary to contain plant pathogens.

Animals or Plants Exposed to or Infected With Select Agents or Toxins

We proposed to require that security, biosafety, and incident response plans include provisions to address the safeguarding of animals or plants accidentally or intentionally exposed to or infected with select agents against unauthorized access, theft, loss or release. Commenters requested clarification about whether this requirement would be limited to experimental plants and animals that are possessed by and controlled by the registered entity. We made no changes to the requirement based on these comments. An entity's security, biosafety, and incident response plans should address any plants or animals within the entity that may be exposed to a select agent, regardless of whether or not the exposure was intentional or accidental.

Another commenter requested clarification on whether the term "animal" included arthropods. We made no changes based on this comment as the term "animal" does include arthropods.

Cost

Commenters requested that we consider the indirect consequences of continuing to include agents and toxins on the select agent list, the negative effect of the proposed rule changes on the potential workforce for select agent research, and the possibility that additional regulations concerning Tier 1 select agents and toxins will mandate more federal oversight and institutional

compliance requirements, resulting in increased costs to taxpayers both directly and indirectly through reduced research efficiency. Commenters requested that a full financial and scientific impact of these added requirements be carefully assessed prior to implementation, especially the increased costs to academic institutions with no associated funding, and the increased burden on investigators already having difficulty finding time for research and experimentation. The commenters also stated that the timeline for implementation of the new requirements should be considered and disclosed to affected entities.

A cornerstone of the Federal Select Agent Program is to establish and enforce safety and security measures to prevent access to select agents and toxins for use in domestic or international terrorism or for any other criminal purpose. An equally important function of the Federal Select Agent Program is to allow for the appropriate availability of biological agents and toxins for research, education, and other legitimate purposes. To achieve both requires the balancing of the need for continuing biological research with requiring a level of safety and security commensurate with the risks posed by these biological agents and toxins. We understand that safety and security requirements cost money and that money in the area of biological research is often a scarce commodity. However, we are also aware that a lack of adequate safety and security requirements could result in damages measured both in dollars and in human lives. It is our determination, based on the information available to us, that the additional requirements would not constitute a significant economic or recordkeeping burden on the regulated entities. We also believe that in many cases these regulations serve to codify systems and procedures already in use by a majority of regulated entities.

To achieve regulatory flexibility, we have included a phase-in period for the effective date for certain requirements of the revised regulations which should allow entities to comply without causing disruption or termination of research or educational projects. As noted in the "Effective Dates" portion of this document, sixty (60) days from the publication of the final rule, entities will need to be in compliance with sections 1–10, 13, 16, and 20. One hundred and eighty days after the publication of the final rule, entities will need to be in compliance with sections 11 (Security), 12 (Biosafety), 14 (Incident response), and 15 (Training).

Request for a Letter of Interpretation Policy

One commenter suggested that the Federal Select Agent Program should augment guidance documents with a letter of interpretation policy. Specifically, the commenter recommended that select agent registrants should be able to submit written requests detailing a compliance issue and receive back a written letter of interpretation from the Federal Select Agent Program in a similar manner as employers can submit requests for interpretation to the Department of Labor Occupational Safety and Health Administration. We are making no changes to the select agent regulations based on this comment because it is outside the scope of this rule.

III. Required Regulatory Analyses

A. Executive Orders 12866 and 13563

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). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

Under Executive Order 12866, HHS must determine whether a regulatory action is "significant." A "significant regulatory action" under Executive Order 12866 is defined as (1) an action that is likely to result in a rule that may have an annual effect on the economy of $100 million or more, or adversely and materially affects a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities (or an economically significant action); (2) creates a serious inconsistency or otherwise interferes with an action taken or planned by another agency; (3) materially alters the budgetary impact of entitlements, grants, user fees or loan programs or the rights and obligations of recipients; or (4) raises novel legal or policy issues. Because this rulemaking proposes changes to how a subset of select agents and toxins is protected, this rule has been determined to be "significant" under Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget (OMB).

We have prepared an economic analysis for this rule. The economic analysis provides a cost-benefit analysis, as required by Executive Order 12866, and a final regulatory flexibility analysis (*See* Section III.B. of this Preamble) that examines the potential economic effects of this rule on small entities, as required by the Regulatory Flexibility Act. The economic analysis is summarized below. Copies of the full analysis are available on *www.regulations.gov*, Docket CDC–2012–0012, at *www.selectagents.gov* or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.**

Summary of the Regulatory Impact Analysis

The Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Pub. L. 107–188) provides for the regulation of certain biological agents and toxins that have the potential to pose a severe threat to human, animal, or plant health, or to animal or plant products. The Animal and Plant Health Inspection Service (APHIS) and the Centers for Disease Control and Prevention (CDC) have primary responsibility for implementing the provisions of the Act within the Department of Agriculture and the Department of Health and Human Services, respectively. Within APHIS, Veterinary Services (VS) select agents and toxins are those that have been determined to have the potential to pose a severe threat to animal health or animal products, and Plant Protection and Quarantine (PPQ) select agents and toxins are those that have been determined to have the potential to pose a severe threat to plant health or plant products. HHS select agents and toxins are those that have been determined to have the potential to pose a severe threat to human health. USDA/APHIS and HHS/CDC coordinate regulatory activities for overlap select agents and toxins that have been determined to pose a severe threat to human and animal health or animal products.

Sections 201 and 212(a)(2) of the Act require a biennial review and republication of the select agent and toxin list, with revisions as appropriate in accordance with this law. These final rules will implement the recommendations of the third biennial review, and incorporate risk-based tiering of the select agent and toxin lists, as required by Executive Order 13546, "Optimizing the Security of Biological Select Agents and Toxins in the United States." In addition, the APHIS and CDC final rules will codify several amendments to the regulations, including the addition of definitions and clarification of language concerning security, training, biosafety/

biocontainment, and incident response. These changes will improve the applicability and effectiveness of the select agent regulations and provide for enhanced program oversight.

Based on information obtained through site-specific inspections, we believe most registered entities already have in place many of the information security requirements set forth in the final rules, and compliance costs of the rules are therefore expected to be minimal. Entities more likely to be affected will be laboratories and other institutions conducting research and related activities that involve the use of select agents and toxins categorized as Tier 1. These entities will be required to conduct a pre-access suitability assessment of individuals with access to a Tier 1 select agent or toxin, as well as enroll these individuals in an occupational health program.

The rules would reduce the period that FBI background checks are valid from five to three years. This increased frequency would effectively increase the cost of background checks by 67 percent. Based on the current number of individuals required to have the background checks, we estimate that the present value of these government-borne costs over five years will increase by $1.96 million across all registered entities. The annual increase in costs will total about $432,000.

While we expect few if any of the registered entities to incur significant compliance costs, required documentation of measures already regularly performed with respect to biocontainment/biosafety, incident response, information security, and ongoing suitability assessment may require additional time of personnel. We estimate additional recurring costs related to information security, such as for software updates, could total about $2 million per year, or about $5,500 per entity, in the unlikely event that none of the entities already uses equivalent information security measures. As noted, many of these costs are already currently borne by entities in their conduct of generally recognized best practices. For entities possessing a Tier 1 agent or toxin, the costs of pre-access suitability assessments and occupational health programs are estimated to total between $2.8 million and $4.4 million, or between about $9,600 and $15,100 per entity, on average. Again, actual costs incurred are unlikely to reach these maximum cost ranges; we expect that many of the entities with a Tier 1 agent or toxin already conduct assessments and have health programs similar or equivalent to those required by the final rules.

The benefits of strengthened safeguards against the unintentional or deliberate release of a select agent or toxin greatly exceed compliance costs of the rules. As an example of losses that can occur, the October 2001 anthrax attacks caused 5 fatalities and 17 illnesses, disrupted business and government activities (including $2 billion in lost revenues for the Postal Service), and required more than $23 million to decontaminate one Senate office building and $3 billion to decontaminate postal facilities and procure mail-sanitizing equipment. Deliberate introduction greatly increases the probability of a select agent becoming established and causing wide-ranging and devastating impacts to the economy, other disruptions to society, and diminished confidence in public and private institutions.

The amended regulations will enhance the protection of human, animal, and plant health and safety. The final rules will reduce likelihood of the accidental or intentional release of a select agent or toxin. Benefits of the rules will derive from the greater probability that a release will be prevented from occurring.

SUMMARY OF THE ESTIMATED MAXIMUM ADDITIONAL COSTS ATTRIBUTABLE TO THE FINAL RULES FOR THE FEDERAL GOVERNMENT AND AFFECTED ENTITIES [1]

	Unit cost	Number of units	Total additional cost
Added Annual Cost for the Federal Government			
Increased frequency of FBI/CJIS background checks.	$240 per person	13,488 approved SRAs; checks valid for three years.	$432,000 per year [2].
Added Recurring Costs for Affected Entities [3]			
Submission of Security Plan	$4.95 per submission	Estimated 130 annual renewals.	$643.50 per year.
Information Security [4]			
network connectivity monitoring (encryption software).	$24–$37 per license	365 registered entities	$8,760–$13,505 per licensing period.
network connectivity monitoring (firewall software).	$79–$199 per license	365 registered entities	$28,835–$72,635 per licensing period.
malware software [4] (intrusion detection)	$15 per computer	365 registered entities	$5,475 per software update.
malware software (antivirus)	$80 per user per year	13,488 approved SRAs	$1,079,040 per year.
system software updates (dedicated time for IT Specialist).	$2,400 per year	365 registered entities	$876,000 per year.
Total [5]	approximately $2 million annually, or on average about $5,500 per registered entity.		
Added Costs for Entities that have a Tier 1 Select Agent or Toxin [3,6]			
Pre-suitability Assessment	$100–$120 per person	13,488 approved SRAs	$1.35–1.62 million.
Occupational Health Program	$107–$204 per person	13,488 approved SRAs	$1.44–2.75 million.

SUMMARY OF THE ESTIMATED MAXIMUM ADDITIONAL COSTS ATTRIBUTABLE TO THE FINAL RULES FOR THE FEDERAL GOVERNMENT AND AFFECTED ENTITIES [1]—Continued

	Unit cost	Number of units	Total additional cost
Total [7]	approximately $2.8 million–$4.4 million, or on average about $9,600–$15,100 per entity with a Tier 1 agent or toxin		

[1] The costs for registered entities summarized in this table are the estimated maximum additional expenditures that would be incurred, if none of the entities currently meets any of the additional security requirements set forth in the final rules. In addition, there will be the opportunity cost of additional time required to modify biosecurity and incident response plans and to conduct audits. Entities will be required to conduct complete inventory audits of all select agents and toxins in long-term storage upon the physical relocation of a collection or inventory of select agents or toxins, upon the departure or arrival of a principal investigator for those select agents or toxins, or in the event of a theft or loss of a select agent or toxin. Time costs are noted qualitatively in the Benefits and Costs section of this analysis.

[2] The annual additional cost estimate assumes a uniform distribution of the 13,488 background checks over three years.

[3] Based on site inspections, many of the entities currently have provisions in place similar or equivalent to those required.

[4] Several of the recurring costs are associated with technological updating of information security, such as firewall and malware software updates. Estimated costs across all entities are uncertain as information is unavailable regarding the number of computers per affected entity. The estimates assume a single computer per entity is used for covered work.

[5] Assumes costs of licensing and software updates are incurred annually.

[6] Estimated costs are likely overstated as not all SRA-approved individuals will have access to Tier 1 select agents and toxins.

[7] Average cost per entity is based on 292 entities that are registered to possess a Tier 1 agent or toxin.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) requires an agency to consider the potential impact of its regulations on small entities, including small businesses, small governmental units, and small not-for-profit organizations. We have prepared an economic analysis for this rule. The economic analysis provides a cost-benefit analysis, as required by Executive Order 12866, and a final regulatory flexibility analysis that examines the potential economic effects of this rule on small entities, as required by the Regulatory Flexibility Act. Based on the economic analysis, which is available at *www.selectagents.gov*, we do not expect the rule to have a significant economic impact on small entities. In the absence of significant economic impacts, we have not identified alternatives that would minimize such impacts.

C. Paperwork Reduction Act of 1995

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the information collection or recordkeeping requirements included in this final rule will be reviewed by the Office of Management and Budget (OMB) as a revision to existing OMB Control Number 0920–0576, expiration 10/31/2014.

USDA/APHIS and HHS/CDC are asking OMB to approve, for 3 years, the use of these information collections, associated with its efforts to more closely regulate select agents or toxins that could be used to commit acts of domestic or international terrorism. We are soliciting comments from the public (as well as affected agencies) concerning this information collection activity. USDA/APHIS and HHS/CDC need this outside input to help accomplish the following:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 2.3187883 hours per response.

Respondents: Researchers, universities, research and development organizations, commercial manufacturers, non-profit institutions, diagnostic laboratories and other interested parties who possess, use, or transfer agents or toxins deemed a severe threat to human, animal or plant health, or to animal or plant products.

Estimated annual number of respondents: 386.

Estimated annual number of responses per respondent: 12.

Estimated annual number of responses: 4,721.

Estimated total annual burden on respondents: 10,947 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Section	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
9 CFR 121.5 and 6, 7 CFR 331.5, 43 CFR 73.5 and 6.	Report of Identification of a Select Agent or Toxin.	161	3	1	299
§ 121.7, § 331.7, § 73.7	Application for Registration	7	1	5	35
§ 121.7, § 331.7, § 73.7	Amendment to a Certificate of Registration.	380	7	1	2,660
§ 121.11, § 331.11, § 73.11	Security Plan	380	1	5	1,900
§ 121.12, § 331.12, § 73.12	Biosafety/Biocontainment Plan	380	1	8	3,040
§ 121.13, § 331.13, § 73.13	Request Regarding a Restricted Experiment.	160	1	2	320
§ 121.14, § 331.14, § 73.14	Incident Response Plan	380	1	5	1,900
§ 121.15, § 331.15, § 73.15	Training	380	1	1	380

Section	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
§ 121.16, § 331.16, § 73.16	Request to Transfer Select Agents and Toxins.	290	1	2	580
§ 121.17, § 331.17, § 73.17	Records	295	1	0.5	148
§ 121.19, § 331.19, § 73.19	Notification of Theft, Loss, or Release.	195	1	2	390

Copies of this information collection may be obtained by calling the CDC Reports Clearance Officer at (404) 639–5960 or sending an email to *omb@cdc.gov*. HHS/CDC is requesting continued OMB approval to collect this information through the use of five updated forms. These forms are: (1) Application for Registration, (2) Transfer of Select Agent or Toxin Form, (3) Facility Notification of Theft, Loss, or Release Form, (4) Clinical and Diagnostic Laboratory Reporting Form, and (5) Request for Exemption.

D. Executive Order 12988: Civil Justice Reform

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Once the final rule is in effect: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

E. Executive Order 13132: Federalism

This rule has been reviewed under Executive Order 13132, Federalism. The review reveals that this regulation will not have substantial and direct effects on Tribal governments and will not have significant Tribal implications.

F. Plain Writing Act of 2010

Under Public Law 111–274 (October 13, 2010), HHS has attempted to use plain language in promulgating the rule consistent with the Plain Writing Act guidelines.

IV. References

1. Delgado, Erickson, et al., 2008. Chapare virus, a newly discovered arenavirus isolated from a fatal hemorrhagic fever case in Bolivia. PLoS Pathogens 4:e1000047.
2. Briese T, Paweska JT, McMullan LK, Hutchison SK, Street C, Palacios G, Khristova ML, Weyer J, Swanepoel R, Egholm M, Nichol ST, Lipkin WI. Genetic detection and characterization of Lujo virus, a new hemorrhagic fever-associated arenavirus from southern Africa. PLoS 2009 May; 5(5):e1000455. Epub 2009 May 29. Available at *www.plospathogens.org*.
3. World Health Organization. Summary of probable SARS cases with onset of illness from 1 November 2002 to 31 July 2003 [monograph on the Internet]. 2003 Dec 31 [cited 2004 Aug 26]. Available from *http://www.who.int/csr/sars/country/table2004_04_21/en/*
4. World Health Organization. SARS case in laboratory worker in Taiwan, China [monograph on the Internet]. 2003 Dec 17 [cited 2004 Aug 26]. Available from *http://www.who.int/mediacentre/releases/2003/np26/en/*
5. World Health Organization. China confirms SARS infection in another previously reported case: summary of cases to date—Update 5 [monograph on the Internet]. 2004 Apr 30 [cited 2004 Aug 26]. Available from *http://www.who.int/csr/don/2004_04_30/en/*
6. World Health Organization. China's latest SARS outbreak has been contained, but biosafety concerns remain—Update 7 [monograph on the Internet]. 2004 May 18. Available from *http://www.who.int/csr/don/2004_05_18a/en/index.html*
7. Liang, G., Chen, Q., Xu, J., Liu, Y., Lim, W., Peiris, J. S., Anderson, L. J., Ruan, L., Li, H., Kan, B., et al. Laboratory diagnosis of four recent sporadic cases of community-acquired SARS, Guangdong Province, China. (2004) Emerg. Infect. Dis. 10, 1774–1781.
8. Sayeed et al. Epsilon-toxin is required for most *Clostridium perfringens* type D vegetative culture supernatants to cause lethality in the mouse intravenous injection model. Infect Immun. 2005 Nov;73(ll):7413–21
9. Favreau P, Krimm I, Le Gall F, Bobenrieth MJ, Lamthanh H, Bouet F, Servent D, Molgo J, Ménez A, Letourneux Y, Lancelin JM. Biochemical Characterization and Nuclear Magnetic Resonance Structure of Novel α-Conotoxins Isolated from the Venom of Conus consors. Biochemistry. 1999 May 11;38(19):6317–26
10. Groebe DR, Dumm JM, Levitan ES, Abramson SN. alpha-Conotoxins selectively inhibit one of the two acetylcholine binding sites of nicotinic receptors. Mol Pharmacol. 1995 Jul;48(1):105–11.
11. Groebe DR, Gray WR, Abramson SN. Determinants Involved in the Affinity of α -Conotoxins GI and SI for the Muscle Subtype of Nicotinic Acetylcholine Receptors. Biochemistry. 1997 May 27;36(21):6469–74.
12. Liu L, Chew G, Hawrot E, Chi C, Wang C. Two potent alpha3/5 conotoxins from piscivorous Conus achatinus. Acta Biochim Biophys Sin (Shanghai). 2007 Jun; 39(6):438–44.
13. Acetylcholine Receptor Binding-Characteristics of Snake and Cone Snail Venom Postsynaptic Neurotoxins: Further Studies with a Non-radiological Assay. Bradley G. Stiles. Toxicon. 1993 Jul;31(7):825–34.
14. Galgiani, J.N. 1999. Coccidiomycosis: a regional disease of national importance. Ann Intern. Med. 130:293–298.
15. Chen N., et al. 2005. Virulence differences between monkeypox virus isolates from West Africa and the Congo basin. Virology 340:46–63.
16. Hutson C. L., et al. 2009. A prairie dog animal model of systemic orthopoxvirus disease using West African and Congo Basin strains of monkeypox virus. J. Gen. Virol. 90:323–333.
17. Saijo M., et al. 2009. Virulence and pathophysiology of the Congo Basin and West African strains of monkeypox virus in non-human primates. J. Gen. Virol. 90:2266–2271.
18. Sbrana E., Xiao S. Y., Newman P. C., Tesh R. B. 2007. Comparative pathology of North American and central African strains of monkeypox virus in a ground squirrel model of the disease. Am. J. Trop. Med. Hyg. 76:155–164.
19. Likos AM, Sammons SA, Olson VA, Frace AM, Li Y, Olsen-Rasmussen M, Davidson W, Galloway R,

Khristova ML, Reynolds MG, Zhao H, Carroll DS, Curns A, Formenty P, Esposito JJ, Regnery RL, Damon IK. A tale of two clades: monkeypox viruses. J Gen Virol. 2005 Oct; 86(Pt 10):2661–72.

20. Azad and Radulovic, 2003: Azad AF, Radulovic S Pathogenic rickettsiae as bioterrorism agents. Ann N Y Acad Sci. 2003; 990: 734—738.

21. Gresíková M, Kaluzová M, 1997. Biology of tick-borne encephalitis virus. Acta Virol. Apr;41(2):115–24.

22. Ecker M, Allison SL, Meixner T, Heinz FX, 1999. Sequence analysis and genetic classification of tick-borne encephalitis viruses from Europe and Asia. J Gen Virol. Jan;80 (Pt 1):179–85.

23. Raoult D, Houpikian P, Tissot DH, Riss JM, Arditi-Djiane J, Brouqui P. Treatment of Q fever endocarditis: comparison of 2 regimens containing doxycycline and ofloxacin or hydroxychloroquine. Arch Intern Med. 1999;159(2):167–73

24. National Science Advisory Board for Biosecurity report: "Enhancing Personnel Reliability among Individuals with Access to Select Agents" (*http://oba.od.nih.gov/biosecurity/meetings/200905T/NSABB%20Final%20Report%20on%20PR%205-29-09.pdf*).

25. Responsible Research with Biological Select Agents and Toxins, Committee on Laboratory Security and Personnel Reliability Assurance Systems for Laboratories Conducting Research on Biological Select Agents and Toxins, National Research Council of the National Academies (*http://www8.nationalacademies.org/cp/projectview.aspx?key=49097*).

26. Report of the Working Group on Strengthening the Biosecurity of the United States, Executive Order 13486 Working Group (*http://edocket.access.gpo.gov/2009/pdf/E9-818.pdf*).

27. Defense Science Board Task Force on Department of Defense Biological Safety and Security Program (*http://www.acq.osd.mil/dsb/reports/ADA499977.pdf*).

28. *Biosafety in Microbiological and Biomedical Laboratories* (*http://www.cdc.gov/biosafety/publications/bmbl5/index.htm*).

List of Subjects in 42 CFR Part 73

Biologics, Packaging and containers, Penalties, Reporting and recordkeeping requirements, Transportation.

Dated: September 28, 2012.

Kathleen Sebelius,

Secretary.

For the reasons stated in the preamble, the Centers for Disease Control and Prevention, United States Department of Health and Human Services, amends 42 CFR part 73 as follows:

PART 73—POSSESSION, USE, AND TRANSFER OF SELECT AGENTS AND TOXINS

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 42 U.S.C. 262a; sections 201–204, 221 and 231 of Title II of Public Law 107–188, 116 Stat. 637 (42 U.S.C. 262a).

■ 2. Add § 73.0 to read as set forth below.

§ 73.0 Applicability and related requirements.

All individuals and entities that possess SARS-CoV, Lujo virus, or Chapare virus must provide notice to CDC regarding their possession of SARS-CoV, Lujo virus, or Chapare virus on or before November 5, 2012. Currently registered individuals and entities possessing SARS-CoV, Lujo virus, or Chapare virus must meet all the requirements of this part by December 4, 2012. All previously unregistered individuals and entities possessing SARS-CoV, Lujo virus, or Chapare virus must meet all of the requirements of this part by April 3, 2013.

■ 3. Section 73.1 is amended by adding, in alphabetical order, definitions of *Conotoxins, Information security, Occupational exposure, Recombinant nucleic acids, Security barrier, and Synthetic nucleic acids* to read as set forth below.

§ 73.1 Definitions.

* * * * *

Conotoxins means short, paralytic alpha conotoxins containing the following amino acid sequence $X_1CCX_2PACGX_3X_4X_5X_6CX_7$, whereas:

(1) C = Cysteine residues are all present as disulfides, with the 1st and 3rd Cysteine, and the 2nd and 4th Cysteine forming specific disulfide bridges;
(2) The consensus sequence includes known toxins α-MI and α-GI (shown above) as well as α-GIA, Ac1.1a, α-CnIA, α-CnIB;
(3) X_1 = any amino acid(s) or Des-X;
(4) X_2 = Asparagine or Histidine;
(5) P = Proline;
(6) A = Alanine;
(7) G = Glycine;
(8) X_3 = Arginine or Lysine;
(9) X_4 = Asparagine, Histidine, Lysine, Arginine, Tyrosine, Phenylalanine or Tryptophan;
(10) X_5 = Tyrosine, Phenylalanine, or Tryptophan;
(11) X_6 = Serine, Threonine, Glutamate, Aspartate, Glutamine, or Asparagine;
(12) X_7 = Any amino acid(s) or Des X; and
(13) "Des X" = "an amino acid does not have to be present at this position." For example if a peptide sequence were XCCHPA then the related peptide CCHPA would be designated as Des-X.

* * * * *

Information security means protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide—

(1) Integrity, which means guarding against improper information modification or destruction, and includes ensuring information authenticity;

(2) Confidentiality, which means preserving authorized restrictions on access and disclosure, including means for protecting personal privacy and proprietary information; and

(3) Availability, which means ensuring timely and reliable access to and use of information.

Occupational exposure means any reasonably anticipated skin, eye, mucous membrane, parenteral contact, or respiratory aerosol exposure to select agents or toxins that may result from the performance of an employee's duties.

* * * * *

Recombinant nucleic acids means:

(1) Molecules that are constructed by joining nucleic acid molecules and that can replicate in a living cell or

(2) Molecules that result from the replication of those described in paragraph (1) of this definition.

* * * * *

Security barrier means a physical structure that is designed to prevent entry by unauthorized persons.

* * * * *

Synthetic nucleic acids means:

(1) Molecules that are chemically or by other means synthesized or amplified, including those that are chemically or otherwise modified but can base pair with naturally occurring nucleic acid molecules (*i.e.*, synthetic nucleic acids) or

(2) Molecules that result from the replication of those described in paragraph (1) of this definition.

* * * * *

■ 4. Section 73.3 is amended as follows:
■ a. By adding a sentence to the end of paragraph (a) to read as set forth below.
■ b. By revising paragraph (b) to read as set forth below.
■ c. In paragraph (c) introductory text, by adding the phrase "and/or Synthetic" after the word "Recombinant" each time it appears.

■ d. In paragraph (c)(2) introductory text, by adding the phrase "and/or synthetic" after the word "Recombinant."
■ e. By revising paragraph (d)(3) to read as set forth below.
■ f. By adding a new paragraph (d)(4) to read as set forth below.
■ g. By adding a new paragraph (d)(5) to read as set forth below.
■ h. By revising paragraph (e) to read as set forth below.
■ i. In paragraph (f)(3)(i), by removing the words "Lassa fever virus" and "South American Haemorrhagic Fever virus (Junin, Machupo, Sabia, Flexal, Guanarito)" and by adding, after "Botulinum neurotoxins,", the term "Botulinum neurotoxin producing species of *Clostridium*."

§ 73.3 HHS select agents and toxins.

(a) * * * The select agents and toxins marked with an asterisk (*) are designated as Tier 1 select agents and toxins and are subject to additional requirements as listed in this part.

(b) HHS select agents and toxins:

Abrin
Botulinum neurotoxins*
Botulinum neurotoxin producing species of *Clostridium**
Conotoxins (Short, paralytic alpha conotoxins containing the following amino acid sequence $X_1CCX_2PACGX_3X_4X_5X_6CX_7$)
Coxiella burnetii
Crimean-Congo haemorrhagic fever virus
Diacetoxyscirpenol
Eastern Equine Encephalitis virus
Ebola virus*
*Francisella tularensis**
Lassa fever virus
Lujo virus
Marburg virus*
Monkeypox virus
Reconstructed replication competent forms of the 1918 pandemic influenza virus containing any portion of the coding regions of all eight gene segments (Reconstructed 1918 Influenza virus)
Ricin
Rickettsia prowazekii
SARS-associated coronavirus (SARS-CoV)
Saxitoxin
South American Haemorrhagic Fever viruses:
  Chapare
  Guanarito Junin
  Machupo
  Sabia
Staphylococcal enterotoxins (subtypes A–E)
T–2 toxin
Tetrodotoxin
Tick-borne encephalitis virus
  Far Eastern subtype
  Siberian subtype
Kyasanur Forest disease virus
Omsk haemorrhagic fever virus
Variola major virus (Smallpox virus) *
Variola minor virus (Alastrim) *
*Yersinia pestis **

* * * * *

(d) * * *

(3) Except as required in § 73.16(l), the aggregate amount of the toxin under the control of a principal investigator, treating physician or veterinarian, or commercial manufacturer or distributor does not, at any time, exceed the following amounts: 100 mg of Abrin; 0.5 mg of Botulinum neurotoxins; 100 mg of Conotoxins (Short, paralytic alpha conotoxins containing the following amino acid sequence $X_1CCX_2PACGX_3X_4X_5X_6CX_7$); 1,000 mg of Diacetoxyscirpenol; 100 mg of Ricin; 100 mg of Saxitoxin; 5 mg of Staphylococcal enterotoxins (subtypes A–E); 1,000 mg of T–2 toxin; or 100 mg of Tetrodotoxin.

(i) The amounts are transferred only after the transferor uses due diligence and documents that the recipient has a legitimate need (*i.e.*, reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose) to handle or use such toxins. Notwithstanding the provisions of paragraph (d) of this section, the HHS Secretary retains the authority to, without prior notification, inspect and copy or request the submission of the due diligence documentation to the CDC.

(ii) Reports to CDC if they detect a known or suspected violation of Federal law or become aware of suspicious activity related to a toxin listed in this part.

(4) An animal inoculated with or exposed to an HHS select toxin.

(5) Any South American genotypes of Eastern Equine Encephalitis Virus and any West African Clade of Monkeypox virus provided that the individual or entity can verify that the agent is within the exclusion category.

(e) An attenuated strain of a select agent or an inactive form of a select toxin may be excluded from the requirements of this part based upon a determination by the HHS Secretary that the attenuated strain or inactivated toxin does not pose a severe threat to public health and safety.

(1) To apply for exclusion, an individual or entity must submit a written request and supporting scientific information. A written decision granting or denying the request will be issued. An exclusion will be effective upon notification to the applicant. Exclusions will be listed on the National Select Agent Registry Web site at *http://www.selectagents.gov/*.

(2) If an excluded attenuated strain or inactivated toxin is subjected to any manipulation that restores or enhances its virulence or toxic activity, the resulting select agent or toxin will be subject to the requirements of this part.

* * * * *

■ 5. Section 73.4 is amended as follows:
■ a. By adding a sentence to the end of paragraph (a) to read as set forth below.
■ b. By revising paragraph (b) to read as set forth below.
■ c. In paragraph (c) introductory text, by adding the phrase "and/or Synthetic" after the word "Recombinant" each time it appears.
■ d. In paragraph (c)(2) introductory text, by adding the phrase "and/or synthetic" after the word "Recombinant."
■ e. By adding a new paragraph (d)(3) to read as set forth below.
■ f. By revising paragraph (e) to read as set forth below.
■ g. In paragraph (f)(3)(i), by removing the words "*Brucella melitensis*, Hendra virus, Nipah virus, Rift Valley fever virus, and Venezuelan equine encephalitis virus" and adding, after "*Bacillus anthracis*", the terms "*Burkholderia mallei*" and "*Burkholderia pseudomallei*" in their place.

§ 73.4 Overlap select agents and toxins.

(a) * * * The select agents and toxins marked with an asterisk (*) are designated as Tier 1 select agents and toxins and are subject to additional requirements as listed in this part.

(b) Overlap select agents and toxins:

*Bacillus anthracis**;
Bacillus anthracis (Pasteur strain);
Brucella abortus;
Brucella melitensis;
Brucella suis;
*Burkholderia mallei**;
*Burkholderia pseudomallei**;
Hendra virus;
Nipah virus;
Rift Valley fever virus;
Venezuelan equine encephalitis virus

* * * * *

(d) * * *

(3) Any subtypes of Venezuelan equine encephalitis virus except for Subtypes IAB or IC provided that the individual or entity can verify that the agent is within the exclusion category.

(e) An attenuated strain of a select agent or an inactive form of a select toxin may be excluded from the requirements of this part based upon a determination by the HHS Secretary or Administrator that the attenuated strain

or inactivated toxin does not pose a severe threat to public health and safety, to animal health or to animal products.

(1) To apply for exclusion, an individual or entity must submit a written request and supporting scientific information. A written decision granting or denying the request will be issued. An exclusion will be effective upon notification to the applicant. Exclusions will be listed on the National Select Agent Registry Web site at *http://www.selectagents.gov/*.

(2) If an excluded attenuated strain or inactivated toxin is subjected to any manipulation that restores or enhances its virulence or toxic activity, the resulting select agent or toxin will be subject to the requirements of this part.

* * * * *

■ 6. Section 73.5 is amended as follows:
■ a. By amending paragraph (a)(3)(i) to remove the words "Lassa fever virus" and "South American Haemorrhagic Fever viruses (Junin, Machupo, Sabia, Flexal, Guanarito)" and by adding, after "Botulinum neurotoxins," the term "Botulinum neurotoxin producing species of *Clostridium*."
■ b. By revising paragraph (e) to read as set forth below.

§ 73.5 Exemptions for HHS select agents and toxins.

* * * * *

(e) The HHS Secretary may temporarily exempt an individual or entity from the requirements of this part based on a determination that the exemption is necessary to provide for the timely participation of the individual or entity in response to a domestic or foreign public health emergency. With respect to the emergency involved, the exemption may not exceed 30 calendar days, except that one extension of an additional 30 calendar days may be granted.

■ 7. Section 73.6 is amended as follows:
■ a. By amending (a)(3)(i) to remove the words "*Brucella melitensis*, Hendra virus, Nipah virus, Rift Valley fever virus, or Venezuelan equine encephalitis virus" and adding, after "*Bacillus anthracis*", the terms "*Burkholderia mallei*" and "*Burkholderia pseudomallei*" in their place.
■ b. By revising paragraph (e) to read as set forth below.

§ 73.6 Exemptions for overlap select agents and toxins.

* * * * *

(e) The HHS Secretary may temporarily exempt an individual or entity from the requirements of this part based on a determination that the exemption is necessary to provide for the timely participation of the individual or entity in response to a domestic or foreign public health emergency. With respect to the emergency involved, the exemption may not exceed 30 calendar days, except that one extension of an additional 30 calendar days may be granted.

* * * * *

■ 8. Section 73.9 is amended as follows:
■ a. In paragraph (a)(4), by removing the word "and."
■ b. By redesignating paragraph (a)(5) as paragraph (a)(6).
■ c. By adding a new paragraph (a)(5) to read as set forth below.
■ d. By revising the first sentence of paragraph (b) to read as set forth below.
■ e. In paragraph (c)(1), by removing the words "*Brucella melitensis*," "Hendra virus," "Lassa fever virus," "Nipah virus," "Rift Valley fever virus," "South American Haemorrhagic Fever viruses (Junin, Machupo, Sabia, Flexal, Guanarito)," and "Venezuelan equine encephalitis virus" and adding, after "Botulinum neurotoxins," the terms "Botulinum neurotoxin producing species of *Clostridium*, *Burkholderia mallei*, *Burkholderia pseudomallei*".

§ 73.9 Responsible Official.

(a) * * *

(5) Have a physical (and not merely a telephonic or audio/visual) presence at the registered entity to ensure that the entity is in compliance with the select agent regulations and be able to respond in a timely manner to onsite incidents involving select agents and toxins in accordance with the entity's incident response plan, and

* * * * *

(b) An entity may designate one or more individuals to serve as an alternate Responsible Official, who acts for the Responsible Official in his/her absence.

* * *

* * * * *

■ 9. Section 73.10 is amended as follows:
■ a. By redesignating paragraphs (e) through (j) as paragraphs (f) through (k) respectively.
■ b. By adding a new paragraph (e) to read as set forth below.
■ c. In newly redesignated paragraph (j), by removing the word "five" and adding in its place "three".

§ 73.10 Restricting access to select agents and toxins; security risk assessments.

* * * * *

(e) A person with a valid approval from the HHS Secretary or Administrator to have access to select agents and toxins may request, through his or her Responsible Official, that the HHS Secretary or Administrator provide their approved access status to another registered individual or entity for a specified period of time.

* * * * *

■ 10. Section 73.11 is amended as follows:
■ a. By revising paragraph (b) to read as set forth below.
■ b. By revising paragraph (c)(2) to read as set forth below.
■ c. By adding new paragraphs (c)(8), (c)(9), and (c)(10) to read as set forth below.
■ d. By redesignating paragraphs (e) and (f) as paragraphs (g) and (h), respectively and by revising newly redesignated paragraph (g) to read as set forth below.
■ e. By adding new paragraphs (e) and (f) to read as set forth below.

§ 73.11 Security.

* * * * *

(b) The security plan must be designed according to a site-specific risk assessment and must provide graded protection in accordance with the risk of the select agent or toxin, given its intended use. A current security plan must be submitted for initial registration, renewal of registration, or when requested.

(c) * * *

(2) Contain provisions for the control of access to select agents and toxins, including the safeguarding of animals, including arthropods, or plants intentionally or accidentally exposed to or infected with a select agent, against unauthorized access, theft, loss or release.

* * * * *

(8) Describe procedures for how the Responsible Official will be informed of suspicious activity that may be criminal in nature and related to the entity, its personnel, or its select agents or toxins; and describe procedures for how the entity will notify the appropriate Federal, State, or local law enforcement agencies of such activity.

(9) Contain provisions for information security that:

(i) Ensure that all external connections to systems which manage security for the registered space are isolated or have controls that permit only authorized and authenticated users;

(ii) Ensure that authorized and authenticated users are only granted access to select agent and toxin related information, files, equipment (*e.g.*, servers or mass storage devices) and applications as necessary to fulfill their roles and responsibilities, and that access is modified when the user's roles and responsibilities change or when

their access to select agents and toxins is suspended or revoked;

(iii) Ensure that controls are in place that are designed to prevent malicious code (such as, but not limited to, computer virus, worms, spyware) from compromising the confidentiality, integrity, or availability of information systems which manage access to registered spaces in § 73.11 or records in § 73.17;

(iv) Establish a robust configuration management practice for information systems to include regular patching and updates made to operating systems and individual applications; and

(v) Establish procedures that provide backup security measures in the event that access control systems, surveillance devices, and/or systems that manage the requirements of section 17 of this part are rendered inoperable.

(10) Contain provisions and policies for shipping, receiving, and storage of select agents and toxins, including documented procedures for receiving, monitoring, and shipping of all select agents and toxins. These provisions must provide that an entity will properly secure containers on site and have a written contingency plan for unexpected shipments.

* * * * *

(e) Entities must conduct complete inventory audits of all affected select agents and toxins in long-term storage when any of the following occur:

(1) Upon the physical relocation of a collection or inventory of select agents or toxins for those select agents or toxins in the collection or inventory;

(2) Upon the departure or arrival of a principal investigator for those select agents and toxins under the control of that principal investigator; or

(3) In the event of a theft or loss of a select agent or toxin, all select agents and toxins under the control of that principal investigator.

(f) In addition to the requirements contained in paragraphs (c) and (d) of this section, the security plan for an individual or entity possessing a Tier 1 select agent or toxin must also:

(1) Describe procedures for conducting a pre-access suitability assessment of persons who will have access to a Tier 1 select agent or toxin;

(2) Describe procedures for how an entity's Responsible Official will coordinate their efforts with the entity's safety and security professionals to ensure security of Tier 1 select agents and toxins and share, as appropriate, relevant information; and

(3) Describe procedures for the ongoing assessment of the suitability of personnel with access to a Tier 1 select agent or toxin. The procedures must include:

(i) Self- and peer-reporting of incidents or conditions that could affect an individual's ability to safely have access to or work with select agents and toxins, or to safeguard select agents and toxins from theft, loss, or release;

(ii) The training of employees with access to Tier 1 select agents and toxins on entity policies and procedures for reporting, evaluation, and corrective actions concerning the assessment of personnel suitability; and

(iii) The ongoing suitability monitoring of individuals with access to Tier 1 select agents and toxins.

(4) Entities with Tier 1 select agents and toxins must prescribe the following security enhancements:

(i) Procedures that will limit access to a Tier 1 select agent or toxin to only those individuals who are approved by the HHS Secretary or Administrator, following a security risk assessment by the Attorney General, have had an entity-conducted pre-access suitability assessment, and are subject to the entity's procedures for ongoing suitability assessment;

(ii) Procedures that limit access to laboratory and storage facilities outside of normal business hours to only those specifically approved by the Responsible Official or designee;

(iii) Procedures for allowing visitors, their property, and vehicles at the entry and exit points to the registered space, or at other designated points of entry to the building, facility, or compound that are based on the entity's site-specific risk assessment;

(iv) A minimum of three security barriers where each security barrier adds to the delay in reaching secured areas where select agents and toxins are used or stored. One of the security barriers must be monitored in such a way as to detect intentional and unintentional circumventing of established access control measures under all conditions (day/night, severe weather, etc.) The final barrier must limit access to the select agent or toxin to personnel approved by the HHS Secretary or Administrator, following a security risk assessment by the Attorney General.

(v) All registered space or areas that reasonably afford access to the registered space must be protected by an intrusion detection system (IDS) unless physically occupied;

(vi) Personnel monitoring the IDS must be capable of evaluating and interpreting the alarm and alerting the designated security response force or law enforcement;

(vii) For powered access control systems, describe procedures to ensure that security is maintained in the event of the failure of access control systems due to power disruption affecting registered space;

(viii) The entity must:

(A) Determine that the response time for security forces or local police will not exceed 15 minutes or

(B) Provide security barriers that are sufficient to delay unauthorized access until the response force arrives in order to safeguard the select agents and toxins from theft, intentional release, or unauthorized access. The response time is measured from the time of an intrusion alarm, or report of a security incident, to the arrival of the responders at the first security barrier.

(5) Entities that possess Variola major virus and Variola minor virus must have the following additional security requirements:

(i) Require personnel with independent unescorted access to Variola major or Variola minor virus to have a Top Secret security clearance;

(ii) Require Variola major or Variola minor virus storage locations to be under the surveillance of closed circuit television that is monitored;

(iii) After hours access procedures for Variola major or Variola minor virus must require notification of the entity's security staff prior to entry into the Variola laboratory and upon exit;

(iv) Require that observation zones be maintained in outdoor areas adjacent to the physical barrier at the perimeter of the entity and be large enough to permit observation of the activities of people at that barrier in the event of its penetration;

(v) Provide for a minimum of four barriers for the protection of the Variola major or Variola minor virus, one of which must be a perimeter fence;

(vi) Require a numbered picture badge identification subsystem to be used for all individuals who are authorized to access Variola major or Variola minor without escort;

(vii) Require the use, at all times, of properly trained and equipped security force personnel able to interdict threats identified in the site specific risk assessment;

(viii) Identify security force personnel designated to strengthen onsite response capabilities, and that will be onsite and available at all times to carry out their assigned response duties;

(ix) Provide for security patrols to periodically check external areas of the registered areas to include physical barriers and building entrances;

(x) Require that all on-duty security force personnel shall be capable of

maintaining continuous communication with support and response assets by way of security operations center;

(xi) Require that Variola major and Variola minor material in long term storage be stored in tamper-evident systems;

(xii) Require that all spaces containing working or permanent Variola major or Variola minor stocks be locked and protected by an intrusion alarm system that will alarm upon the unauthorized entry of a person anywhere into the area;

(xiii) Require that alarms required pursuant to this section annunciate in a continuously manned security operations center located within the facility; and

(xiv) Require that the security operations center shall be located within a building so that the interior is not visible from the perimeter of the protected area.

(g) In developing a security plan, an individual or entity should consider the document entitled, "Security Guidance for Select Agent or Toxin Facilities." The document is available on the National Select Agent Registry Web site at *http://www.selectagents.gov/.*

* * * * *

■ 11. Section 73.12 is amended as follows:

■ a. By revising paragraph (a) to read as set forth below.

■ b. By revising paragraphs (c)(1), (2), and (3) to read as set forth below.

■ c. By redesignating paragraph (d) as paragraph (e).

■ d. By adding a new paragraph (d) to read as set forth below.

§ 73.12 Biosafety.

(a) An individual or entity required to register under this part must develop and implement a written biosafety plan that is commensurate with the risk of the select agent or toxin, given its intended use. The biosafety plan must contain sufficient information and documentation to describe the biosafety and containment procedures for the select agent or toxin, including any animals (including arthropods) or plants intentionally or accidentally exposed to or infected with a select agent.

* * * * *

(c) * * *

(1) The CDC/NIH publication, "Biosafety in Microbiological and Biomedical Laboratories." This document is available on the National Select Agent Registry Web site at *http://www.selectagents.gov.*

(2) The Occupational Safety and Health Administration (OSHA) regulations in 29 CFR parts 1910.1200 and 1910.1450. This document is available on the National Select Agent Registry Web site at *http://www.selectagents.gov.*

(3) The "NIH Guidelines for Research Involving Recombinant DNA Molecules," (NIH Guidelines). This document is available on the National Select Agent Registry Web site at *http://www.selectagents.gov.*

* * * * *

(d) The biosafety plan must include an occupational health program for individuals with access to Tier 1 select agents and toxins, and those individuals must be enrolled in the occupational health program.

* * * * *

■ 12. Section 73.13 is amended as follows:

■ a. In paragraph (a), add the phrase ", or possess products (*i.e.*, select agents that are not known to acquire the resistance naturally, if such acquisition could compromise the control of disease agents in humans, veterinary medicine, or agriculture, or recombinant and/or synthetic nucleic acids containing genes for the biosynthesis of select toxins lethal for vertebrates at an LD[50] < 100 ng/kg body weight) resulting from," after the word "conduct" both times it appears.

■ b. By revising paragraph (b) to read as set forth below.

§ 73.13 Restricted experiments.

* * * * *

(b) Restricted experiments:

(1) Experiments that involve the deliberate transfer of, or selection for, a drug resistance trait to select agents that are not known to acquire the trait naturally, if such acquisition could compromise the control of disease agents in humans, veterinary medicine, or agriculture.

(2) Experiments involving the deliberate formation of synthetic or recombinant nucleic acids containing genes for the biosynthesis of select toxins lethal for vertebrates at an LD[50] < 100 ng/kg body weight.

* * * * *

■ 13. Section 73.14 is amended as follows:

■ a. By revising paragraph (a) to read as set forth below.

■ b. By revising paragraph (b) to read as set forth below.

■ c. By redesignating paragraphs (c) and (d) as paragraphs (d) and (f) respectively.

■ d. By adding a new paragraph (c) to read as set forth below.

■ e. By adding a new paragraph (e) to read as set forth below.

§ 73.14 Incident response.

(a) An individual or entity required to register under this part must develop and implement a written incident response plan based upon a site specific risk assessment.[2] The incident response plan must be coordinated with any entity-wide plans, kept in the workplace, and available to employees for review.

(b) The incident response plan must fully describe the entity's response procedures for the theft, loss, or release of a select agent or toxin; inventory discrepancies; security breaches (including information systems); severe weather and other natural disasters; workplace violence; bomb threats and suspicious packages; and emergencies such as fire, gas leak, explosion, power outage, and other natural and man-made events.

(c) The response procedures must account for hazards associated with the select agent or toxin and appropriate actions to contain such select agent or toxin, including any animals (including arthropods) or plants intentionally or accidentally exposed to or infected with a select agent.

* * * * *

(e) Entities with Tier 1 select agents and toxins must have the following additional incident response policies or procedures:

(1) The incident response plan must fully describe the entity's response procedures for failure of intrusion detection or alarm system; and

(2) The incident response plan must describe procedures for how the entity will notify the appropriate Federal, State, or local law enforcement agencies of suspicious activity that may be criminal in nature and related to the entity, its personnel, or its select agents or toxins.

* * * * *

■ 14. Section 73.15 is revised to read as follows:

§ 73.15 Training.

(a) An individual or entity required to register under this part must provide information and training on biosafety, security (including security awareness), and incident response to:

(1) Each individual with access approval from the HHS Secretary or Administrator before that individual has such access to select agents and toxins. The training must address the particular needs of the individual, the work they will do, and the risks posed by the select agents or toxins; and

[2] Nothing in this section is meant to supersede or preempt incident response requirements imposed by other statutes or regulations.

(2) Each individual not approved for access to select agents and toxins by the HHS Secretary or Administrator before that individual enters areas where select agents or toxins are handled or stored (*e.g.*, laboratories, growth chambers, animal rooms, greenhouses, storage areas, shipping/receiving areas, production facilities, etc.). Training for escorted personnel must be based on the risk associated with accessing areas where select agents and toxins are used and/or stored.

(b) Entities with Tier 1 select agents and toxins must conduct annual insider threat awareness briefings on how to identify and report suspicious behaviors.

(c) Refresher training must be provided annually for individuals with access approval from the HHS Secretary or Administrator or at such time as the registered individual or entity significantly amends its security, incident response, or biosafety plans.

(d) The Responsible Official must ensure a record of the training provided to each individual with access to select agents and toxins and each escorted individual (*e.g.*, laboratory workers, visitors, etc.) is maintained. The record must include the name of the individual, the date of the training, a description of the training provided, and the means used to verify that the employee understood the training.

■ 15. Section 73.16 is amended as follows:

■ a. By redesignating paragraphs (f), (g), (h), and (i) as paragraphs (i),(j), (k), and (g) respectively.

■ b. In newly redesignated paragraph (g), by removing the words "packaging and".

■ c. By adding a new paragraph (f) to read as set forth below.

■ d. By adding a new paragraph (h) to read as set forth below.

■ e. By adding a new paragraph (l) to read as set forth below.

§ 73.16 Transfers.

* * * * *

(f) After authorization is provided by APHIS or CDC, the packaging of the select agent(s) and toxin(s) is performed by an individual approved by the HHS Secretary or Administrator to have access to select agents and toxins and is in compliance with all applicable laws concerning packaging.

* * * * *

(h) Transportation in commerce starts when the select agent(s) or toxin(s) are packaged for shipment and ready for receipt by a courier transporting select agent(s) or toxin(s) and ends when the package is received by the intended recipient who is an individual approved by the HHS Secretary or Administrator to have access to select agents and toxins, following a security risk assessment by the Attorney General.

* * * * *

(l) A registered individual or entity transferring an amount of a HHS toxin otherwise excluded under the provisions of § 73.3(d) must:

(1) Transfer the amounts only after the transferor uses due diligence and documents that the recipient has a legitimate need (*i.e.*, reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose) to handle or use such toxins.

(2) Report to CDC if they detect a known or suspected violation of Federal law or become aware of suspicious activity related to a toxin listed in § 73.3(d) of this part.

■ 16. Section 73.17 is amended as follows:

■ a. By revising paragraph (a)(1) introductory text to read as set forth below.

■ b. By redesignating paragraphs (a)(2) through (a)(6) as paragraphs (a)(3) through (a)(7) respectively.

■ c. By adding a new paragraph (a)(2) to read as set forth below.

§ 73.17 Records.

(a) * * *

(1) An accurate, current inventory for each select agent (including viral genetic elements, recombinant and/or synthetic nucleic acids, and organisms containing recombinant and/or synthetic nucleic acids) held in long-term storage (placement in a system designed to ensure viability for future use, such as in a freezer or lyophilized materials), including:

* * * * *

(2) An accurate, current accounting of any animals or plants intentionally or accidentally exposed to or infected with a select agent (including number and species, location, and appropriate disposition);

* * * * *

■ 17. Section 73.20 is revised to read as set forth below.

§ 73.20 Administrative review.

(a) An individual or entity may appeal a denial, revocation, or suspension of registration under this part. The appeal must be in writing, state the factual basis for the appeal, and be submitted to the HHS Secretary within 30 calendar days of the decision.

(b) An individual may appeal a denial, limitation, or revocation of access approval under this part. The appeal must be in writing, state the factual basis for the appeal, and be submitted to the HHS Secretary within 180 calendar days of the decision.

(c) The HHS Secretary's decision constitutes final agency action.

[FR Doc. 2012–24389 Filed 10–2–12; 11:15 am]

BILLING CODE 4163–18–P

FEDERAL REGISTER

Vol. 77 Friday,
No. 194 October 5, 2012

Part IV

Environmental Protection Agency

40 CFR Part 9 and 721
Significant New Use Rules on Certain Chemical Substances; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 721

[EPA–HQ–OPPT–2012–0277; FRL–9364–5]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is promulgating significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for 78 chemical substances which were the subject of premanufacture notices (PMNs). Seven of these chemical substances are subject to TSCA section 5(e) consent orders issued by EPA. This action requires persons who intend to manufacture, import, or process any of these 78 chemical substances for an activity that is designated as a significant new use by this rule to notify EPA at least 90 days before commencing that activity. The required notification will provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it occurs.

DATES: This rule is effective on December 4, 2012. For purposes of judicial review, this rule shall be promulgated at 1 p.m. (e.s.t.) on October 19, 2012.

Written adverse or critical comments, or notice of intent to submit adverse or critical comments, on one or more of these SNURs must be received on or before November 5, 2012 (see Unit VI. of the **SUPPLEMENTARY INFORMATION**).

For additional information on related reporting requirement dates, see Units I.A., VI., and VII. of the **SUPPLEMENTARY INFORMATION**.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2012–0277, 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, Rm. 6428, 1201 Constitution Ave. NW., Washington, DC. ATTN: Docket ID Number EPA–HQ–OPPT–2012–0277. 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: Direct your comments to docket ID number EPA–HQ–OPPT–2012–0277. 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: Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–9232; email address: *moss.kenneth@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?

You may be potentially affected by this action if you manufacture, import, process, or use the chemical substances contained in this rule. 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:

- Manufacturers, importers, or processors of one or more subject chemical substances (NAICS codes 325 and 324110), e.g., chemical manufacturing and petroleum refineries.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127 and 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemicals subject to these SNURs must certify their compliance with the SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export a chemical substance that is the subject of this rule are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see § 721.20), and must comply with

the export notification requirements in 40 CFR part 707, subpart D.

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. Background

A. What action is the Agency taking?

EPA is promulgating these SNURs using direct final procedures. These SNURs will require persons to notify EPA at least 90 days before commencing the manufacture, import, or processing of a chemical substance for any activity designated by these SNURs as a significant new use. Receipt of such notices allows EPA to assess risks that may be presented by the intended uses and, if appropriate, to regulate the proposed use before it occurs. Additional rationale and background to these rules are more fully set out in the preamble to EPA's first direct final SNUR published in the **Federal Register** issue of April 24, 1990 (55 FR 17376) (April 24, 1990 SNUR). Consult that preamble for further information on the objectives, rationale, and procedures for SNURs and on the basis for significant new use designations, including provisions for developing test data.

B. What is the Agency's authority for taking this action?

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors, including the four bulleted TSCA section 5(a)(2) factors listed in Unit III. Once EPA determines that a use of a chemical substance is a significant new use, TSCA section 5(a)(1)(B) requires persons to submit a significant new use notice (SNUN) to EPA at least 90 days before they manufacture, import, or process the chemical substance for that use. Persons who must report are described in § 721.5.

C. Applicability of General Provisions

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the rule to uses occurring before the effective date of the rule. Provisions relating to user fees appear at 40 CFR part 700. According to § 721.1(c), persons subject to these SNURs must comply with the same SNUN requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A). In particular, these requirements include the information submission requirements of TSCA sections 5(b) and 5(d)(1), the exemptions authorized by TSCA sections 5(h)(1), 5(h)(2), 5(h)(3), and 5(h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUN, EPA may take regulatory action under TSCA section 5(e), 5(f), 6, or 7 to control the activities for which it has received the SNUN. If EPA does not take action, EPA is required under TSCA section 5(g) to explain in the **Federal Register** its reasons for not taking action.

III. Significant New Use Determination

Section 5(a)(2) of TSCA states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.
- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.
- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In addition to these factors enumerated in TSCA section 5(a)(2), the statute authorized EPA to consider any other relevant factors.

To determine what would constitute a significant new use for the 78 chemical substances that are the subject of these SNURs, EPA considered relevant information about the toxicity of the chemical substances, likely human exposures and environmental releases associated with possible uses, and the four bulleted TSCA section 5(a)(2) factors listed in this unit.

IV. Substances Subject to this Rule

EPA is establishing significant new use and recordkeeping requirements for 84 chemical substances in 40 CFR part 721, subpart E. In this unit, EPA provides the following information for each chemical substance:

- PMN number.
- Chemical name (generic name, if the specific name is claimed as CBI).
- Chemical Abstracts Service (CAS) Registry number (if assigned for non-confidential chemical identities).
- Basis for the TSCA section 5(e) consent order or, for non-section 5(e) SNURs, the basis for the SNUR (i.e., SNURs without TSCA section 5(e) consent orders).
- Tests recommended by EPA to provide sufficient information to evaluate the chemical substance (see Unit VIII. for more information).
- CFR citation assigned in the regulatory text section of this rule.

The regulatory text section of this rule specifies the activities designated as significant new uses. Certain new uses, including production volume limits (i.e., limits on manufacture and importation volume) and other uses designated in this rule, may be claimed as CBI. Unit IX. discusses a procedure companies may use to ascertain whether a proposed use constitutes a significant new use.

This rule includes 7 PMN substances (P–04–80, P–06–149, P–06–153, P–07–

327, P–09–48, P–09–636, and P–10–367) that are subject to "risk-based" consent orders under TSCA section 5(e)(1)(A)(ii)(I) where EPA determined that activities associated with the PMN substances may present unreasonable risk to human health or the environment. Those consent orders require protective measures to limit exposures or otherwise mitigate the potential unreasonable risk. The so-called "5(e) SNURs" on these PMN substances are promulgated pursuant to § 721.160, and are based on and consistent with the provisions in the underlying consent orders. The 5(e) SNURs designate as a "significant new use" the absence of the protective measures required in the corresponding consent orders.

Where EPA determined that the PMN substance may present an unreasonable risk of injury to human health via inhalation exposure, the underlying TSCA section 5(e) consent order usually requires, among other things, that potentially exposed employees wear specified respirators unless actual measurements of the workplace air show that air-borne concentrations of the PMN substance are below a New Chemical Exposure Limit (NCEL) that is established by EPA to provide adequate protection to human health. In addition to the actual NCEL concentration, the comprehensive NCELs provisions in TSCA section 5(e) consent orders, which are modeled after Occupational Safety and Health Administration (OSHA) Permissible Exposure Limits (PELs) provisions, include requirements addressing performance criteria for sampling and analytical methods, periodic monitoring, respiratory protection, and recordkeeping. However, no comparable NCEL provisions currently exist in 40 CFR part 721, subpart B, for SNURs. Therefore, for these cases, the individual SNURs in 40 CFR part 721, subpart E, will state that persons subject to the SNUR who wish to pursue NCELs as an alternative to the § 721.63 respirator requirements may request to do so under § 721.30. EPA expects that persons whose § 721.30 requests to use the NCELs approach for SNURs are approved by EPA will be required to comply with NCELs provisions that are comparable to those contained in the corresponding TSCA section 5(e) consent order for the same chemical substance.

This rule also includes SNURs on 71 PMN substances that are not subject to consent orders under TSCA section 5(e). In these cases, for a variety of reasons, EPA did not find that the use scenario described in the PMN triggered the determinations set forth under TSCA section 5(e). However, EPA does believe that certain changes from the use scenario described in the PMN could result in increased exposures, thereby constituting a "significant new use." These so-called "non-section 5(e) SNURs" are promulgated pursuant to § 721.170. EPA has determined that every activity designated as a "significant new use" in all non-section 5(e) SNURs issued under § 721.170 satisfies the two requirements stipulated in § 721.170(c)(2), i.e., these significant new use activities. "(i) are different from those described in the premanufacture notice for the substance, including any amendments, deletions, and additions of activities to the premanufacture notice, and (ii) may be accompanied by changes in exposure or release levels that are significant in relation to the health or environmental concerns identified" for the PMN substance.

PMN Number P–00–535

Chemical name: 1-Octadecanol, manuf. of, distn. lights, fractionation heavies, distn. lights.

CAS number: 243640–46–2.

Basis for action: The PMN states that the substance will be used as a feedstock for esterification. Based on ecological structure activity relationship (EcoSAR) analysis of test data on analogous neutral organic chemicals, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 part per billion (ppb) of the PMN substance in surface waters for greater than 20 days per year. This 20-day criterion is derived from partial life cycle tests (daphnid chronic and fish early-life stage tests) that typically range from 21 to 28 days in duration. EPA predicts toxicity to aquatic organisms may occur if releases of the PMN substance to surface water exceed releases from the use described in the PMN. For the use described in the PMN, environmental releases did not exceed 1 ppb for more than 20 days per year. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance other than as a feedstock for esterification may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish early-life stage toxicity test (Office of Pollution Prevention and Toxics (OPPTS) Test Guideline 850.1400); a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300); and an algal toxicity test (Office for Chemical Safety and Pollution Prevention (OCSPP) Test Guideline 850.4500) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10426.

PMN Number P–01–579

Chemical name: Acrylate ester (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a monomer. Based on EcoSAR analysis of test data on analogous acrylates, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 50 ppb of the PMN substance in surface waters. As described in the PMN, releases of the PMN substance are not expected to result in surface water concentrations that exceed 50 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 50 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help to characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10537

PMN Number P–02–161

Chemical name: Phosphonium, tetrakis (hydroxymethyl)-, chloride (1:1), reaction products with 1-tetradecanamine and urea.

CAS number: 359406–89–6.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a flame retardant. Based on test data on the PMN substance and EcoSAR analysis of test data on analogous cationic surfactants, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 2 ppb of the PMN substance in surface waters. As described in the PMN, the substance is not released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable

risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 2 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170 (b)(4)(i) and (b)(4)(ii).

Recommended testing: EPA has determined that the results of a ready biodegradability test (OPPTS Test Guideline 835.3110); a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); and an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010) would help characterize the environmental and fate effects of the PMN substance.

CFR citation: 40 CFR 721.10538.

PMN Number P–02–653

Chemical name: Bis[phenyl-2H-1,3-benzoxazine]derivative (generic).

CAS number: Not available.

Basis for action: The PMN states that the substance will be used as a resin for electronic laminates, adhesives, encapsulants, and composites. Based on EcoSAR analysis of test data on analogous neutral organic chemicals, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the PMN substance in surface waters. As described in the PMN, the substance is not released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance presents an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 1 ppb may cause significant adverse environmental effects. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish bioconcentration factor (BCF) test (OPPTS Test Guideline 850.1730); a fish early-life stage toxicity test (OPPTS Test Guideline 850.1400); a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10539.

PMN Number P–02–984

Chemical name: 1,3-Benzenedimethanamine, N-(2-phenylethyl) derivs.

CAS number: 404362–22–7.

Basis for action: The PMN states that the substance will be used as an epoxy curing agent. Based on EcoSAR analysis of test data on analogous aliphatic amines, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 5 ppb of the PMN substance in surface waters. As described in the PMN, the substance is not released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 5 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10540.

PMN Number P–03–481

Chemical name: 5,2,6-(Iminomethenimino)-1H-imidazo[4,5-b]pyrazine, octahydro-1,3,4,7,8,10-hexanitro-.

CAS number: 135285–90–4.

Basis for action: The PMN substance will be used as an explosive and propellant. Based on structure activity relationship (SAR) analysis of test data on analogous octahydro-1,3,5,7-tetranitro-1,3,5,7-tetrazocine (also called HMX or octogen); CAS No. 2691–41–0, as well as test data for hexahydro-1,3,5-trinitro-1,3,5-triazine (also called RDX, cyclonite, hexogen, or cyclotrimethylenetrinitramine); CAS No. 121–82–4, EPA identified concerns for neurotoxicity, including severe convulsions or seizures, systemic effects, reproductive and developmental effects, immunotoxicity and oncogenicity from exposure to the PMN substance. In addition, based on EcoSAR analysis of test data on analogous polynitro organic analogues, EPA predicts toxicity to aquatic organisms from the degradation product of the PMN substance at surface water concentrations that exceed 50 ppb of the degradation product. For the use described in the PMN, dermal and inhalation exposures are not expected, and releases to surface waters are not expected to result in surface water concentrations exceeding 50 ppb for the PMN degradation product. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that use of the substance without respiratory protection, impervious gloves, or release to surface waters without chemical destruction or conversion may cause serious health effects and significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170 (b)(3)(ii) and (b)(4)(ii).

Recommended testing: EPA has determined that the results of a combined repeated dose toxicity study with reproductive/developmental toxicity screening test, including neurotoxicity assessment and functional observations (OPPTS Test Guideline 870.3650); a combined chronic toxicity/carcinogenicity test (OPPTS Test Guideline 870.4300); a hydroysis as a function of pH and temperature test (OPPTS Test Guideline 835.2130); and a ready biodegradability test (OPPTS Test Guideline 835.3110) would help to characterize the human health and environmental fate of the PMN substance.

CFR citation: 40 CFR 721.10541.

PMN Number P–03–624

Chemical name: Dodecanedioic acid, 1,12-dimethyl ester.

CAS number: 1731–79–9.

Basis for action: The PMN states that the substance will be used as a chemical intermediate. Based on EcoSAR analysis of test data on analogous esters, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 30 ppb of the PMN substance in surface waters. As described in the PMN, releases of the PMN substance are not expected to result in surface water concentrations that exceed 30 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, and use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 30 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help

characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10542.

PMN Number P–04–79

Chemical name: Oxetane, 3-methyl-3-[(2,2,3,3,3-pentafluoropropoxy)methyl]-.

CAS number: 449177–94–0.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a monomer in the production of reactive polymers for surface coatings and other polymer intermediates. Based on SAR analysis of test data on analogous oxetanes, EPA identified concerns for male reproductive toxicity, liver toxicity, and thyroid effects from exposure to the PMN substance. As described in the PMN, significant inhalation exposures are not expected and dermal exposures are not expected due to the use of protective gloves. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance presents an unreasonable risk. EPA has determined, however, that any use of the substance without dermal protection where there is a potential for dermal exposures may cause serious health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(ii).

Recommended testing: EPA has determined that the results of a combined repeated dose test with a reproductive/developmental toxicity screening (Organisation for Economic Co-operation and Development (OECD) Test Guideline 422) via gavage in rats would help characterize the human health effects of the PMN substance.

CFR citation: 40 CFR 721.10543.

PMN Number P–04–80

Chemical name: Oxetane, 3-methyl-3-[[(3,3,4,4,5,5,6,6,6-nonafluorohexyl)oxy]methyl]-.

CAS number: 475678–78–5.

Effective date of TSCA section 5(e) consent order: December 28, 2004.

Basis for TSCA section 5(e) consent order: The PMN states that the substance will be used as a monomer in the production of reactive polymers for surface coating materials and other polymer intermediates. EPA has identified health and environmental concerns because the substance may be a persistent, bio-accumulative, and toxic (PBT) chemical, based on physical/chemical properties of the PMN substance, as described in the New Chemical Program's PBT category (64 FR 60194; November 4, 1999) (FRL–6097–7). Also, based on SAR analysis of test data on analogous oxetanes, EPA identified concerns for male reproductive toxicity and systemic effects from exposures to the PMN substance. Further, based on EcoSAR analysis of analogous oxetanes, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 5 ppb of the PMN substance in surface waters. The consent order was issued under TSCA sections 5(e)(1)(A)(i), 5(e)(1)(A)(ii)(I), and 5(e)(1)(A)(ii)(II), based on a finding that this substance may present an unreasonable risk of injury to human health and the environment, the substance may be produced in substantial quantities and may reasonably be anticipated to enter the environment in substantial quantities, and there may be significant (or substantial) human exposure to the substance and its potential degradation products. To protect against these risks, the consent order requires:

1. Use of personal protective equipment including dermal protection (where there is a potential for dermal exposure).

2. Establishment and use of a hazard communication program.

3. No release of the PMN substance into the waters of the United States.

The SNUR designates as a "significant new use" the absence of these protective measures.

Recommended testing: EPA has determined that the results of a combined repeated dose toxicity test with a reproductive/developmental toxicity screening test (OPPTS Test Guideline 870.3650 or OECD Test Guideline 422) in rats by gavage would help characterize possible human health effects of the PMN substance. The PMN submitter has agreed not to exceed the confidential production limit specified in the consent order without performing this test. In addition, EPA has determined the results of a log Kow test (OECD Test Guideline 117), and (depending upon the results of the log Kow test) a fish BCF test (OPPTS Test Guideline 850.1730); a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500), would help characterize the persistence, bioaccumulation, and environmental effects of the PMN substance. The consent order does not require submission of this additional recommended testing at any specified time or production volume. However, the consent order's restrictions on manufacture, import, processing, distribution in commerce, use, and disposal of the PMN substance will remain in effect until the Order is modified or revoked by EPA based on submission of that or other relevant information.

CFR citation: 40 CFR 721.10544.

PMN Number P–04–313

Chemical name: Aminotriazine modified cresol novolec resin (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a glass epoxy laminate. Based on EcoSAR analysis of test data on analogous phenols, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 10 ppb of the PMN substance in surface waters. As described in the PMN, releases of the PMN substance are not expected to result in surface water concentrations that exceed 10 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance presents an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 10 ppb may cause significant adverse environmental effects. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish BCF test (OPPTS Test Guideline 850.1730), and either an aerobic and anaerobic transformation in aquatic sediment systems test (OECD Test Guideline 308) or a shake flask die-away test (OPPTS Test Guideline 835.3170) would help to characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10545.

PMN Number P–04–340

Chemical name: Pentenylated polyethylene glycol sulfate salt (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a polymerization additive. Based on EcoSAR analysis of test data on analogous anionic surfactants, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the PMN substance in surface waters. As described in the PMN, releases of the substance are not expected to result in surface water concentrations that exceed 1 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 1 ppb may cause significant adverse

environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help to characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10546.

PMN Number P–04–587

Chemical name: Dialkyl dimethyl ammonium methylcarbonate (generic).

CAS number: Not available.

Basis for action: The PMN states that the substance will be used as a chemical intermediate. Based on EcoSAR analysis of test data on analogous cationic surfactants, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 5 ppb of the PMN substance in surface waters for greater than 20 days per year. This 20-day criterion is derived from partial life cycle tests (daphnid chronic and fish early-life stage tests) that typically range from 21 to 28 days in duration. EPA predicts toxicity to aquatic organisms may occur if releases of the PMN substance to surface water exceed releases from the use described in the PMN. For the chemical intermediate use described in the PMN, environmental releases did not exceed 5 ppb for more than 20 days per year. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance presents an unreasonable risk. EPA has determined, however, that any use of the substance other than as a chemical intermediate may cause significant adverse environmental effects. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish early-life stage toxicity test (OPPTS Test Guideline 850.1400) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10547.

PMN Number P–04–624

Chemical name: Mixed alkyl phosphate esters alkoxylated (generic).

CAS number: Not available.

Basis for action: The PMN substance will be used as a component in a lubricant blend. Based on EcoSAR analysis of test data on analogous nonionic surfactants, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 40 ppb of the PMN substance in surface waters. As described in the PMN, releases of the substance are not expected to result in surface water concentrations that exceed 40 ppb. Therefore, EPA has not determined that manufacturing, processing, and use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 40 ppb may cause significant adverse environmental effects. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help to characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10548.

PMN Number P–04–635

Chemical name: Ethane, 1,1,2,2-tetrafluoro-1-(2,2,2-trifluoroethoxy)-.

CAS number: 406–78–0.

Basis for action: The PMN states that the substance will be used for cleaning electronic components, precision cleaning, dewatering of electronic components and other parts following aqueous cleaning, and as a carrier/lubricant coating for hard disk drives and other precision parts. Based on test data on the PMN substance, EPA identified concerns for neurotoxicity. For the industrial use described in the PMN, the substance is imported and no significant worker exposures are expected. Therefore, EPA has not determined that the proposed processing or use of the substance presents an unreasonable risk. EPA has determined, however, that domestic manufacture, use in non-industrial products, or use other than as described in the PMN may cause serious chronic health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(i).

Recommended testing: EPA has determined that inhalation monitoring data, collected according to the EPA draft Inhalation Monitoring Data Collection Guidelines (located in the docket under docket ID number EPA–HQ–OPPT–2012–0277) would help characterize the human health effects of the PMN substance.

CFR citation: 40 CFR 721.10549.

PMN Number P–05–324

Chemical name: Rare earth salt of a carboxylic acid (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a paint component. Based on SAR analysis of test data on analogous lanthanides, EPA identified concerns for developmental toxicity, kidney toxicity, and blood toxicity (specifically, anticoagulant activity). In addition, based on EcoSAR analysis of test data on analogous organic and inorganic salts, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 5 ppb of the PMN substance in surface waters. For the use described in the PMN, significant worker and general population exposures are not expected, and releases of the substance are not expected to result in surface water concentrations that exceed 5 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance presents an unreasonable risk. EPA has determined, however, that any use of the substance other than as described in the PMN, or any use resulting in surface water concentrations exceeding 5 ppb may cause serious health effects and significant adverse environmental effects. Based on this information the PMN substance meets the concern criteria at § 721.170 (b)(3)(ii) and (b)(4)(ii).

Recommended testing: EPA has determined that the results of an acute oral toxicity test (OPPTS Test Guideline 870.1100); a bacterial reverse mutation test (OPPTS Test Guideline 870.5100); a mammalian erythrocyte micronucleus test (OPPTS Test Guideline 870.5395) via the intraperitoneal route; a repeated dose 28-day oral toxicity test in rodents (OPPTS Test Guideline 870.3050), including a neurotoxicity functional observational battery, as described in the neurotoxicity screening battery (OPPTS Test Guideline 870.6200); a prenatal developmental toxicity test (OPPTS Test Guideline 870.3700) in one species, via the oral route; either a porous pot test (OPPTS Test Guideline 835.3220) or an aerobic sewage treatment simulation test (OECD Test Guideline 303A); a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the human health and environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10550.

PMN Number P–05–613

Chemical name: Bisphenol S mono ether (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a color developer. Based on SAR analysis of test data on analogous epoxides, EPA identified concerns for respiratory sensitization, mutagenicity, oncogenicity, developmental toxicity, male reproductive toxicity, liver toxicity, and kidney toxicity. In addition, based on test data on the PMN substance and EcoSAR analysis of test data on analogous phenols, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the PMN substance in surface water. For the use described in the PMN, occupational exposures during manufacture are not expected as the PMN substance is imported. Occupational exposures during processing and use are not expected to be significant due to expected use of appropriate personal protective equipment, and the substance is not released to surface waters during processing or use. Therefore, EPA has not determined that the proposed processing or use of the substance presents an unreasonable risk. EPA has determined, however, that domestic manufacture, any use of the substance other than as described in the PMN, or any use of the substance resulting in surface water concentrations exceeding 1 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170 (b)(1)(i)(C), (b)(3)(ii), (b)(4)(i), and (b)(4)(ii).

Recommended testing: EPA has determined that the results of a combined repeated dose toxicity with the reproduction/development toxicity screening test (OPPTS Test Guideline 870.3650); a carcinogenicity test (OPPTS Test Guideline 870.4200); a fish early-life stage toxicity test (OPPTS Test Guideline 850.1400); and a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300) would help characterize the human health and environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10551.

PMN Number P–05–774

Chemical name: Oxirane, 2-(1-chlorocyclopropyl)-2-[(2-chlorophenyl)methyl]-.

CAS number: 134818–68–1.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a chemical intermediate. Based on test data on the PMN substance, EPA identified concerns for dermal sensitization. In addition, based on SAR analysis of test data on analogous epoxides and chlorobenzenes, EPA identified concerns for carcinogenicity, mutagenicity, systemic toxicity, neurotoxicity, and reproductive toxicity from worker exposures. Further, based on test data on the PMN substance and EcoSAR analysis of test data on analogous monoepoxides, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 2 ppb of the PMN substance in surface waters. For the site-limited intermediate use described in the PMN, significant worker dermal exposure is unlikely due to the use of impervious personal protective equipment and releases of the substance are not expected to result in surface water concentrations that exceed 2 ppb. Therefore, EPA has not determined that manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that use of the substance without workers wearing impervious gloves, where there is a potential for dermal exposures; use of the substance other than as a site-limited chemical intermediate, or any use of the substance resulting in surface water concentrations exceeding 2 ppb may cause serious health effects and significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170 (b)(1)(i)(C), (b)(3)(i), (b)(3)(ii), (b)(4)(i), and (b)(4)(ii).

Recommended testing: EPA has determined that the results of a porous pot test (OPPTS Test Guideline 835.3220); a mammalian erythrocyte micronucleus test (OPPTS Test Guideline 870.5395) by the intraperitoneal route; a combined repeated dose toxicity test (OPPTS Test Guideline 870.3650) with the reproduction/development toxicity screening test and neurotoxicity endpoints; a carcinogenicity test (OPPTS Test Guideline 870.4200); a fish early-life stage toxicity test (OPPTS Test Guideline 850.1400); a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the human health and environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10552.

PMN Number P–06–149

Chemical name: Potassium titanium oxide.

CAS number: 12673–69–7.

Effective date of TSCA section 5(e) consent order: March 18, 2008.

Basis for TSCA section 5(e) consent order: The PMN states that the generic (non-confidential) use of the substance is as a physical characteristics modifier for industrial use in certain solid composite articles. Based on test data on the PMN substance and SAR analysis of test data on analogous respirable, poorly soluble particulates (subcategory titanium dioxide), EPA identified concerns for lung toxicity and fibrosis in workers exposed to the PMN substance by the inhalation route. The Order was issued under sections 5(e)(1)(A)(i) and 5(e)(1)(A)(ii)(I) of TSCA based on a finding that the substance may present an unreasonable risk of injury to human health. To protect against this risk, the consent order requires:

1. Use of personal protective equipment including a National Institute for Occupational Safety and Health (NIOSH)-certified respirator with an assigned protection factor (APF) of at least 10, or compliance with a NCEL of 1.5 mg/m^3 as a time weighted average (when there is a potential for inhalation exposures).

2. Establishment and use of a hazard communication program.

3. No manufacture of the PMN substance with a particle size less than 100 nanometers.

The SNUR designates as a "significant new use" the absence of these protective measures.

Recommended testing: EPA determined that the results of the following study would help characterize the human health effects of the PMN substance: A 90-day inhalation toxicity test with special attention to histopathology (inflammation and cell proliferation) of the lung tissues and to various parameters of the broncoalveolar lavage fluid (BALF), e.g., marker enzyme activities, total protein content, total cell count, cell differential, and cell viability (OPPTS Test Guideline 870.3465).

CFR citation: 40 CFR 721.10553.

PMN Number P–06–153

Chemical name: Iso-tridecanol (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) consent order: October 13, 2006.

Basis for TSCA section 5(e) consent order: The PMN states that the substance will be used as a reactant. Based on test data on the PMN

substance, and EcoSAR analysis of test data on analogous neutral organic compounds, EPA predicts toxicity to aquatic organisms at concentrations that exceed 8 ppb of the PMN substance in surface waters. Further, aquatic toxicity, persistence, and bioaccumulation potential vary depending on the isoindex (i.e., the average number of branches per alkyl unit) of the PMN substance. EPA has determined that as the isoindex increases, persistence and bioaccumulation values increase. At the isoindex value of 2.32 for the intended PMN substance, the substance is not considered a PBT chemical and aquatic toxicity risk is mitigated by the decrease in persistence. However, as the isoindex increases above 3, EPA estimates that the PMN substance will persist in the environment more than two months and EPA estimates a bioaccumulation factor of greater than or equal to 1000. If the isoindex is less than three, the PMN is not expected to persist. The consent order was issued under TSCA sections 5(e)(1)(A)(i) and 5(e)(1)(A)(ii)(I), based on a finding that this substance may present an unreasonable risk of injury to the environment. To protect against these risks, the consent order requires manufacture of the PMN substance according to the chemical composition section of the consent order, with no greater than an average of three branches per alkyl unit and routine analysis of the PMN substance to verify compliance with the average number of alkyl units restriction. The SNUR designates as a "significant new use" the absence of these protective measures.

Recommended testing: EPA has determined that the results of a ready biodegradability test (OPPTS Test Guideline 835.3110); a fish early-life stage toxicity test (OPPTS Test Guideline 850.1400); and a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300) would help characterize the environmental effects of the PMN substance. The consent order does not require the submission of this testing at any specified time or production volume. However, the consent order's restrictions on manufacture, import, processing, distribution in commerce, use, and disposal of the PMN substances will remain in effect until the consent order is modified or revoked by EPA based on submission of that or other relevant information.

CFR citation: 40 CFR 721.10554.

PMN Number P–06–370

Chemical name: Benzoic acid nonyl ester, branched and linear.

CAS number: 670241–72–2.

Basis for action: The PMN states that the substance will be used as a softener for polyvinyl chloride. Based on test data on the PMN substance, EPA identified concerns for developmental toxicity from exposure to the PMN substance. In addition, based on test data on the PMN substance and EcoSAR analysis of test data on analogous esters, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 6 ppb of the PMN substance in surface waters. As described in the PMN, dermal exposures are not expected due to the use of impervious gloves and no domestic manufacture, and releases of the PMN substance are not expected to result in surface water concentrations that exceed 6 ppb. Therefore, EPA has not determined that the proposed processing or use of the substance presents an unreasonable risk. EPA has determined, however, that any use of the substance without impervious gloves, where there is a potential for dermal exposures; any domestic manufacture; or any use of the substance resulting in surface water concentrations exceeding 6 ppb may cause serious health effects and significant adverse environmental effects. Based on this information the PMN substance meets the concern criteria at § 721.170 (b)(3)(i), (b)(4)(i), and (b)(4)(ii).

Recommended testing: EPA has determined that the results of a 90-day subchronic dermal toxicity test in rats (OPPTS Test Guideline 870.3250) and a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300) would help characterize the human health and environmental effects of the PMN substance. EPA also recommends that the special considerations for conducting aquatic laboratory studies (OPPTS Test Guideline 850.1000) be followed.

CFR citation: 40 CFR 721.10555.

PMN Numbers P–06–450, P–06–451, and P–06–452

Chemical names: (P–06–450) Poly(oxy-1,2-ethanediyl), .alpha.- (2-methyl-2-propen-1-yl) -.omega.-hydroxy-,C_{12-15}-alkyl ethers; (P–06–451) Poly(oxy-1,2-ethanediyl), .alpha.- (2-methyl-2-propen-1-yl) -.omega.-hydroxy-,C_{10-16}-alkyl ethers; and (P–06–452) Poly(oxy-1,2-ethanediyl), .alpha.- (2-methyl-2-propen-1-yl) -.omega.-hydroxy-,C_{12-16}-alkyl ethers.

CAS numbers: (P–06–450) 675869–02–0; (P–06–451) 620610–66–4; and (P–06–452) 675869–05–3.

Basis for action: The consolidated PMN states that the substances will be used as wetting agents for low foam spray metal cleaning. Based on EcoSAR analysis of test data on analogous neutral organic chemicals, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 10 ppb of the PMN substances in surface waters. At the combined production volume stated in the notice, releases of the PMN substances are not expected to result in surface water concentrations that exceed 10 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substances may present an unreasonable risk. EPA has determined, however, that any increase in the combined annual manufacture and import volume of 45,000 kilograms (kgs) of the substances could result in exposures which may cause significant adverse environmental effects. Based on this information, the PMN substances meet the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075) on any of the three PMN substances would help characterize the environmental effects of the PMN substances.

CFR citations: 40 CFR 721.10556 (P–06–450); 40 CFR 721.10557 (P–06–451); and 40 CFR 721.10558 (P–06–452).

PMN Number P–06–793

Chemical name: Morpholine, 4-C_{6-12} acyl derivs.

CAS number: 887947–29–7.

Basis for action: The PMN states that the substance will be used as a pesticide dispersant/solvent. Based on test data on the PMN substance, EPA identified concerns for systemic effects from dermal exposures. As described in the PMN, worker dermal exposures are not expected due to the use of impervious skin protection and hazard communication warnings for systemic effects. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance without impervious dermal protection, where there is a potential for dermal exposures, or any use of the substance without hazard communication warnings for systemic effects may cause serious health effects. Based on this information, the PMN meets the concern criteria at § 721.170(b)(3)(i).

Recommended testing: EPA has determined that the results of 90-day subchronic dermal toxicity test (OPPTS Test Guideline 870.3250) would help characterize the human health effects of the PMN substance.

CFR citation: 40 CFR 721.10559.

PMN Numbers P–07–143 and P–07–144

Chemical names: Alkanoldioic dialkyl esters (generic).

CAS numbers: Not available.

Basis for action: The PMNs state that the generic (non-confidential) use of the substances will be as lubricant additives. Based on EcoSAR analysis of test data on analogous esters, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 3 ppb of the PMN substances in surface waters for greater than 20 days per year. This 20-day criterion is derived from partial life cycle tests (daphnid chronic and fish early-life stage tests) that typically range from 21 to 28 days in duration. EPA predicts toxicity to aquatic organisms may occur if releases of the PMN substances to surface water exceed releases from the use described in the PMNs. For the use described in the PMNs, environmental releases did not exceed 3 ppb for more than 20 days per year. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substances presents an unreasonable risk. EPA has determined, however, that any use of the substances other than as described in the PMNs may cause significant adverse environmental effects. Based on this information the PMN substances meet the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish early-life stage toxicity test (OPPTS Test Guideline 850.1400) would help characterize the environmental effects of the PMN substances. EPA also recommends that the special considerations for conducting aquatic laboratory studies (OPPTS Test Guideline 850.1000) be followed.

CFR citation: 40 CFR 721.10560.

PMN Number P–07–327

Chemical name: Substituted phenol (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) consent order: September 17, 2008.

Basis for TSCA section 5(e) consent order: The PMN states that the generic (non-confidential) use of the substance will be as an antioxidant. Based on EcoSAR analysis of test data on analogous phenols, EPA predicts toxicity to aquatic organisms at concentrations that exceed 1 ppb of the PMN substance in surface waters. The consent order was issued under TSCA sections 5(e)(1)(A)(i), 5(e)(1)(A)(ii)(I), and 5(e)(1)(A)(ii)(II), based on a finding that the substance may present an unreasonable risk of injury to the environment, may be produced in substantial quantities, and may reasonably be anticipated to enter the environment in substantial quantities. To protect against these risks, the consent order requires:

1. Establishment and use of a hazard communication program.

2. No release of the PMN substance into the waters of the United States.

The SNUR designates as a "significant new use" the absence of these protective measures.

Recommended testing: EPA has determined that the results of certain human health toxicity testing specified in the consent order would help characterize the human health effects of the substance. The PMN submitter has agreed not to exceed the confidential production volume limit without performing an *in vitro* mouse lymphoma assay (mammalian cell mutation test) (OPPTS Test Guideline 870.5300) and a repeated dose 28-day oral toxicity test (OPPTS Test Guideline 870.3050) to include a neurotoxicity battery (OPPTS Test Guideline 870.6200).

In addition, EPA has determined that the results of a fish early-life stage toxicity test (OPPTS Test Guideline 850.1400); a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the PMN substance. The consent order does not require submission of this aquatic toxicity testing by any specified time or production volume. However, the consent order's restrictions on manufacture, import, processing, distribution in commerce, use and disposal of the PMN will remain in effect until the consent order is modified or revoked by EPA based on submission of that or other relevant information.

CFR citation: 40 CFR 721.10561.

PMN Number P–07–375

Chemical name: Aluminum trihydrate and silane homopolymer (generic).

CAS number: Not available.

Basis for action: The PMN states that the use of the substance will be as a flame retardant. Based on test data on an analogous insoluble high molecular weight polymer, EPA identified concerns for lung toxicity if the PMN substance is inhaled. At an annual production volume of 100,000 kgs, worker exposure is limited and consumer exposure is not expected. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any increase of the annual 100,000 kg production volume may result in increased exposure to the PMN substance which may cause significant adverse human health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(ii).

Recommended testing: EPA has determined that the results of a 90-day inhalation toxicity test (OPPTS Test Guideline 870.3465) with a 60-day holding period would help characterize the health effects of the PMN substance.

CFR citation: 40 CFR 721.10562.

PMN Number P–07–496

Chemical name: 2-Oxiranemethanamine, N-[3-(2-oxiranylmethoxy)phenyl]-N-(2-oxiranylmethyl)-.

CAS number: 71604–74–5.

Basis for action: The PMN substance will be used as a preparation of pre-impregnated cloth/fiber tapes for aerospace composite articles. Based on SAR analysis of test data on analogous epoxides, EPA identified concerns for oncogenicity, mutagenicity, developmental toxicity, reproductive toxicity, and liver toxicity from exposure to the PMN substance. As described in the PMN, worker dermal exposure to the PMN substance will be minimal due to the use of impervious gloves, and no significant inhalation exposure is expected. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance without the use of impervious gloves, where there is potential for dermal exposure, or any use of the substance other than as a preparation of pre-impregnated cloth/fiber tapes for aerospace composite articles may cause serious health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(1)(i)(C) and (b)(3)(ii).

Recommended testing: EPA has determined that the results of a 90-day subchronic dermal toxicity test in rats (OPPTS Test Guideline 870.3250) and a dermal carcinogenicity test (OPPTS Test Guideline 870.4200) would help characterize the human health effects of the PMN substance.

CFR citation: 40 CFR 721.10563.

PMN Number P–08–39

Chemical name: Mixed amino diaryl sulfone isomers (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a hardening agent. Based on SAR analysis of test data on analogous dianilines, EPA identified

concerns for immunotoxicity, oncogenicity, blood effects, liver effects, and hypersensitivity from exposures to the PMN substance. In addition, based on EcoSAR analysis of analogous dianilines, EPA predicts toxicity to aquatic organisms at concentrations that exceed 8 ppb of the PMN substance in surface waters. For the non-consumer use described in the PMN, significant worker exposures are not expected as the PMN is used in liquid form, and releases of the substance to surface waters are not expected. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance presents an unreasonable risk. EPA has determined, however, that any use of the substance in consumer products, any use of the substance in the form of a powder, or any use of the substance resulting in surface water concentrations exceeding 8 ppb may cause serious health effects and significant adverse environmental effects. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(1)(i)(C), (b)(3)(ii), and (b)(4)(ii).

Recommended testing: EPA has determined that the results of a rat acute oral retinopathy screening test; a pigmented rat 90-day subchronic toxicity test (OPPTS Test Guidelines 870.3100 or 870.3465) by either the oral or inhalation route, including histopathological examination of the eyes (by both light and electron microscopy) and reproductive organs; a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the human health and environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10564.

PMN Number P–08–263

Chemical name: Ethanol, 2,2′-[[3-[(2-hydroxyethyl)amino]propyl]imino]bis-, N-(hydrogenated tallow alkyl) derivs.

CAS number: 90367–25–2.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a raw material to manufacture a surfactant blend. Based on EcoSAR analysis of test data on analogous aliphatic amines, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the PMN substance in surface waters. As described in the PMN, releases of the PMN substance are not expected to result in surface water concentrations that exceed 1 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 1 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a simulation test—aerobic sewage treatment: activated sludge units (OPPTS Test Guideline 835.3240); a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); a fish acute toxicity mitigated by humic acid (OPPTS Test Guideline 850.1085); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10565.

PMN Number P–08–292

Chemical name: 1-Propanamine, *N*-(1-methylethyl) -,3- (C_{12-15}-alkyloxy) derivs.

CAS number: 944835–56–7.

Basis for action: The PMN states that the substance will be used as a lubricant additive intermediate. Based on EcoSAR analysis of test data on analogous aliphatic amines, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the substance in surface waters. As described in the PMN, the substance is not released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance presents an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 1 ppb may cause significant adverse environmental effects. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a ready biodegradability test (OPPTS Test Guideline 835.3110); a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10566.

PMN Number P–08–300

Chemical name: Amidoamine salt (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a laundry product additive. Based on EcoSAR analysis of test data on analogous aliphatic amines, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the substance in surface waters. As described in the PMN, releases of the substance are not expected to result in surface water concentrations that exceed 1 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance presents an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 1 ppb may cause significant adverse environmental effects. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a ready biodegradability test (OPPTS Test Guideline 835.3110); a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10567.

PMN Number P–08–464

Chemical name: Diethanolamine salt of polymeric acid (generic).

CAS number: Not available.

Basis for action: The PMN states that the substance will be used as a pigment dispersant in latex paints. Based on EcoSAR analysis of test data on analogous inorganic phosphates, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 4 ppb of the substance in surface waters. As described in the PMN, releases of the substance are not expected to result in surface water concentrations that exceed 4 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance presents an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 4 ppb may cause significant adverse environmental effects. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10568.

PMN Number P–08–471

Chemical name: Tricyclic quaternary amine salt (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a chemical intermediate. Based on EcoSAR analysis of test data on analogous cationic surfactants, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 100 ppb of the substance in surface waters. As described in the PMN, the substance is not released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance presents an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 100 ppb may cause significant adverse environmental effects. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10569.

PMN Number P–08–537

Chemical name: Cyclic amine reaction product with acetophenone and formaldehyde acid salt (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as an acid inhibitor. Based on test data on the PMN substance and EcoSAR analysis of test data on analogous aliphatic amines, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 8 ppb of the PMN substance in surface waters. As described in the PMN, releases of the PMN substance are not expected to result in surface water concentrations that exceed 8 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance presents an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 8 ppb may cause significant adverse environmental effects. Based on this information the PMN substance meets the concern criteria at § 721.170(b)(4)(i) and (b)(4)(ii).

Recommended testing: EPA has determined that the results of fish early-life stage toxicity test (OPPTS Test Guideline 850.1400); a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10570.

PMN Number P–08–611

Chemical name: 1,3-Benzenediol, polymer with 1,1′-methylenebis[isocyanatobenzene].

CAS number: 1008753–84–1.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a rubber additive. Based on SAR analysis of test data on analogous diisocyanates, EPA identified concerns for dermal and respiratory sensitization and for pulmonary toxicity to workers exposed to free isocyanates. Also, based on EcoSAR analysis of test data on analogous esters and phenols, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the PMN substance in surface waters. For the use scenarios described in the PMN, which were supported by product composition tests and simulated use condition tests, significant worker exposure is not expected, and the substance is not released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that use of the substance other than as described in the PMN (manufacture with all isocyanate groups reacted within the polymer), or any use of the substance resulting in surface water concentrations exceeding 1 ppb could result in exposures which may cause serious health effects or significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170 (b)(3)(ii) and (b)(4)(ii).

Recommended testing: EPA has determined that the results of a dermal sensitization test (OPPTS Test Guideline 870.2600); a 90-day subchronic inhalation toxicity test (OPPTS Test Guideline 870.3465); a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the human health and environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10571.

PMN Number P–08–680

Chemical name: Benzamide, N-[[4-[(cyclopropylamino)carbonyl]phenyl] sulfonyl]-2-methoxy-.

CAS number: 221667–31–8.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as an adjuvant for agricultural products. Based on test data on the PMN substance, EPA identified concerns for urinary tract toxicity from exposure to the PMN substance. As described in the PMN, worker dermal and inhalation exposures will be minimal due to the use of impervious gloves, a NIOSH-certified respirator with an APF of at least 10, and establishment of a hazard communication program. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance without impervious gloves, where there is a potential for dermal exposures; any use of the substance without a NIOSH-certified respirator with an APF of at least 10, where there is a potential for inhalation exposures; or without establishing the hazard communication program may result in serious health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(i).

Recommended testing: EPA has determined that inhalation monitoring data would help characterize the health effects of the PMN substance. EPA's draft Inhalation Monitoring Data Collection Guidelines are available in the docket for this rule under docket ID number EPA–HQ–OPPT–2012–0277.

CFR citation: 40 CFR 721.10572.

PMN Number P–08–737

Chemical name: Magnesium hydroxide surface treated with substituted alkoxy silanes (generic).

CAS number: Not available.

Basis for action: The PMN states that the substance will be used as a flame retardant. Based on test data on analogous respirable, poorly soluble particulates, EPA identified concerns for

lung toxicity and immunotoxicity if the PMN substance is inhaled. For the use described in the PMN, and at the annual 100,000 kg production volume stated in the PMN, worker inhalation exposure will be minimal due to adequate personal protective equipment. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any increase of the annual 100,000 kg production volume, or use without workers wearing a NIOSH-certified respirator with an APF of at least 10, or use without an appropriate hazard communication program may result in serious health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(ii).

Recommended testing: EPA has determined that the results of a 90-day inhalation toxicity test (OPPTS Test Guideline 870.3465) with a 60-day holding period would help characterize the health effects of the PMN substance.

CFR citation: 40 CFR 721.10573.

PMN Number P–09–48

Chemical name: Alkylcarboxy polyester acrylate reaction products with mixed metal oxides (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) consent order: August 31, 2009.

Basis for TSCA section 5(e) consent order: The PMN states that the generic (non-confidential) use of the substance will be as a film coating additive. Based on particle size data on the PMN substance, and SAR analysis of test data on analogous respirable, poorly soluble particulates, EPA identified concerns for inflammation of the lungs, lung fibrosis and lung cancer, as well as internal organ effects. In addition, based on EcoSAR analysis of test data on analogous acrylate substances, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 55 ppb of the PMN substance in surface waters. The consent order was issued under TSCA sections 5(e)(1)(A)(i) and 5(e)(1)(A)(ii)(I), based on a finding that this substance may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the consent order requires:

1. Use of impervious gloves (when there is a potential for dermal exposure).
2. Establishment and use of a hazard communication program.
3. No manufacturing, processing, or use of the PMN substance in non-enclosed processes when the PMN substance is in the powder form.
4. No use involving an application method that generates a vapor, mist, aerosol, or a dust.
5. Transport of the PMN substance to processors using only reusable tote tanks cleaned not more than once per year.
6. Use of the PMN substance only for the confidential use specified in the consent order.
7. Disposal of the PMN substance, any waste streams from manufacture of the PMN substance, and any waste streams from processing of the PMN substance only by incineration in a Resource Conservation and Recovery Act (RCRA)-approved hazardous waste incinerator.
8. Waste streams from use of the PMN substance must either be disposed of by incineration in a RCRA-approved hazardous waste incinerator, or be recycled via polymer reclamation.
9. No release of the PMN substance into the waters of the United States.

The SNUR designates as a "significant new use" the absence of these protective measures.

Recommended testing: EPA has determined that the results of a 90-day inhalation toxicity test in rats with a post-exposure observation period of up to 60 days, including bronchoalveolar lavage fluid analysis (OPPTS Test Guideline 870.3465 or OECD Test Guideline 413); determination of incineration removal efficiency, full dissolution test using transformed PMN substance following incineration (OECD ENV/JM/MONO(2001)); and particle size distribution, aspect ratio, and crystalline structure of transformed PMN substance following incineration (OPPTS Test Guideline 830.7520) would help characterize the human health effects, environmental fate, and physical chemical properties of the PMN substance. The consent order does not require submission of this testing at any specified time or production volume. However, the consent order's restrictions on manufacture, import, processing, distribution in commerce, use, and disposal of the PMN will remain in effect until the consent order is modified or revoked by EPA based on submission of that or other relevant information.

CFR citation: 40 CFR 721.10574.

PMN Number P–09–480

Chemical name: 1-Propanone, 1,1′-(oxydi-4,1-phenylene)bis[2-hydroxy-2-methyl-.

CAS number: 71868–15–0.

Basis for action: The PMN states that the use of the substance will be used as a co-photoinitiator for ultra-violet (UV)-curable pigmented inks, co-photo initiator for photoresists, optical fibers and printed plates, and co-photoinitiator for UV-curable coatings and a co-photoinitiator for UV-curable adhesives and other coatings. Based on test data on the PMN substance, EPA identified concerns for reproductive toxicity effects from exposure to the PMN substance. In addition, based on test data on the PMN substance, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 14 ppb of the PMN substance in surface waters. For the use described in the PMN, worker exposure will be minimal due to the use of a NIOSH-certified respirator with an APF of at least 50, adequate hazard communication, and no domestic manufacture of the PMN substance, and environmental effects will be minimal as releases of the substance to surface waters are not expected. Therefore, EPA has not determined that the proposed processing or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance without a NIOSH-certified respirator with an APF of at least 50, where there is potential inhalation exposure; any domestic manufacture; without adequate hazard communication; or any use of the substance resulting in surface water concentrations exceeding 14 ppb may cause serious health effects and significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(i) and (b)(4)(i).

Recommended testing: EPA has determined that the results of a two-generation reproductive toxicity (OECD Test Guideline 416); a fish early-life stage toxicity test (OPPTS Test Guideline 850.1400); and a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300) would help characterize the human health and environmental effects of the PMN substance. EPA also recommends that the special considerations for conducting aquatic laboratory studies (OPPTS Test Guideline 850.1000) be followed.

CFR citation: 40 CFR 721.10575.

PMN Number P–09–486

Chemical name: Polyalkenyl, N,N′-bistriazole (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non confidential) use of the substance will be as a lubricant additive. Based on EcoSAR analysis of analogous polycationic polymers, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 140 ppb of the PMN substance in surface waters for greater than 20 days

per year. This 20-day criterion is derived from partial life cycle tests (daphnid chronic and fish early-life stage tests) that typically range from 21 to 28 days in duration. EPA predicts toxicity to aquatic organisms may occur if releases of the PMN substance to surface water exceed releases from the use described in the PMN. For the use described in the PMN, environmental releases did not exceed 140 ppb for more than 20 days per year. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance other than as described in the PMN may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10576.

PMN Number P–09–636

Chemical name: Benzenamine, 5-(1,1-dimethylethyl)-2-[(2-ethylhexyl)thio]-,4-methylbenzenesulfonate (1:1).

CAS number: 852360–51–1.

Effective date of TSCA section 5(e) consent order: June 4, 2010.

Basis for TSCA section 5(e) consent order: The PMN states that the substance will be used as a chemical intermediate. EPA has identified health and environmental concerns because the substance may be a PBT chemical, based on physical/chemical properties of the PMN substance, as described in the New Chemical Program's PBT category. EPA estimates that the PMN substance will persist in the environment more than two months and estimates a bioaccumulation factor of greater than or equal to 5,000. Also, based on test data on the PMN substance and SAR analysis for anilines, EPA predict toxicity to aquatic organisms at concentrations that exceed 1 ppb and developmental toxicity to workers from exposures during uses other than as a site-limited chemical intermediate. The consent order was issued under TSCA section 5(e)(1)(A)(i) and 5(e)(1)(A)(ii)(I) based on a finding that this substance may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the consent order requires:

1. Establishment and use of a hazard communication program.

2. Use of the PMN substance only as a site-limited intermediate.

3. No release of the PMN substance into the waters of the United States.

The SNUR designates as a "significant new use" the absence of these protective measures.

Recommended testing: EPA has determined that the results of human health, aquatic toxicity, and environmental fate testing would help characterize the effects of the PMN substance. The PMN submitter has agreed not to exceed the first production volume limit of 15,000 kgs prior to submitting testing to determine the log Kow value (by either the liquid chromatography test (OPPTS Test Guideline 830.7575) or the generator column method (OPPTS Test Guideline 830.7560)); and the ready biodegradability test (OPPTS Test Guideline 835.3110) by any of six methods described in the consent order: Depending on the results of the first tier testing, the PMN submitter has agreed not to exceed the second production volume limit of 170,000 kgs prior to submitting testing to determine biodegradation and bioaccumulation potential. Further, depending upon the results of the second tier testing, the PMN submitter has agreed not to exceed the third production volume limit of 496,000 kgs prior to submitting: a combined repeated dose toxicity test with a reproductive/developmental toxicity screening test (OECD Test Guideline 422) in rats; a mammalian erythrocyte micronucleus test (OPPTS Test Guideline 870.5395) via the intraperitoneal route; a sediment/water microcosm biodegradation test (OPPTS Test Guideline 835.3180); fish early-life stage toxicity test (OPPTS Test Guideline 850.1400); and a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300).

CFR citation: 40 CFR 721.10577.

PMN Number P–10–231

Chemical name: Unsaturated polyester imide (generic).

CAS number: Not available.

Basis for action: The PMN states that the use of the substance will be as electrical insulating varnish for motors, generators and transformers. Based on EcoSAR analysis of aliphatic amines, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 52 ppb of the PMN substance in surface waters. As described in the PMN, the substance is not released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 52 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline: 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline: 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the PMN substance. EPA also recommends that the special considerations for conducting aquatic laboratory studies (OPPTS Test Guideline 850.1000) be followed.

CFR citation: 40 CFR 721.10578.

PMN Number P–10–367

Chemical name: Carbon black derived from the pyrolysis of rubber tire shreds (generic).

CAS number: Not available.

Effective date of TSCA section 5(e) consent order: May 16, 2011.

Basis for TSCA section 5(e) consent order: The PMN states that the generic (non-confidential) use of the substance will be as carbon black for general industrial use. Based on test data on carbon black and SAR analysis of test data on analogous respirable, poorly soluble particulates, EPA identified concerns for immunotoxicity, pulmonary toxicity, and carcinogenicity. In addition, based on aquatic toxicity data on carbon black, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1,000 ppb of the PMN substance in surface waters. The consent order was issued under TSCA sections 5(e)(1)(A)(i) and 5(e)(1)(A)(ii)(I), based on a finding that this substance may present an unreasonable risk of injury to human health and the environment. To protect against these risks, the consent order requires:

1. Manufacture of the PMN substance using only the process described in the PMN.

2. Manufacturing, processing, or use of the PMN substance in compliance with the Occupational Safety and Health Administration (OSHA) Permissible Exposure Limit (PEL) for carbon black of 3.5 mg/m^3.

3. Manufacture of the PMN substance to meet the NIOSH recommended time weighted average (TWA) for polyaromatic hydrocarbons (PAH) in carbon black of 0.1 mg/m^3 as described in the NIOSH Pocket Guide to Chemical

Hazards Appendix C (see *http://www.cdc.gov/niosh/npg/nengapdza.html*).

4. Submission of data demonstrating compliance with the NIOSH TWA for PAH as described in the testing section of the consent order.

5. No release of the PMN substance into the waters of the United States.

The SNUR designates as a "significant new use" the absence of these protective measures.

Recommended testing: EPA has determined that the results of certain human health testing would help characterize the human health effects of the PMN substance. The PMN submitter has agreed not to exceed the confidential production volume specified in the consent order prior to performing a 90-day inhalation toxicity test (OPPTS Test Guideline 870.3465) with (1) a post-exposure observation period of up to 3 months; (2) bronchoalveolar lavage fluid (BALF) analysis, aggregate/agglomeration state, shape, size/size particle distribution and surface properties of materials as administered; (3) aggregation/agglomeration state, shape, size/size particle distribution; and surface properties of materials of the delivered materials after administration; and (4) determination of cardiovascular toxicity, heart histopathology, and data on pulmonary deposition. Further, the PMN submitter must submit additional worker exposure monitoring data to determine whether worker exposures exceed the NIOSH REL for PAH. In addition, EPA has determined that the results of a 2-year carcinogenicity test (OPPTS Test Guideline 870.4300) would help characterize the human health effects of the PMN substance. The consent order does not require submission of this test at any specified time or production volume. However, the consent order's restrictions on manufacture, import, processing, distribution in commerce, use, and disposal of the PMN will remain in effect until the consent order is modified or revoked by EPA based on submission of that or other relevant information.

CFR citation: 40 CFR 721.10579.

PMN Number P–10–452

Chemical name: Poly[oxy(methyl-1,2-ethanediyl)], alpha, alpha'-[1,4-cyclohexanediylbis(methylene)]bis[omega-(2-aminomethylethoxy)-.

CAS number: 1220986–58–2.

Basis for action: The PMN states that the use for this substance will be as an epoxy curing agent. Based on EcoSAR on analogous aliphatic amines, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 98 ppb of the PMN substance in surface waters. As described in the PMN notice, releases of the PMN substance are not expected to result in surface water concentrations that exceed 98 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 98 ppb, may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a porous pot test (OPPTS Test Guideline 835.3220); a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline: 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline: 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10580.

PMN Numbers P–10–524 and P–10–525

Chemical names: Brominated polyurethane prepolymers of methylene diphenyl diisocyanate (MDI) (generic).

CAS numbers: Not available.

Basis for action: The consolidated PMN states that the generic (non-confidential) use of the substances will be as components of polyurethane coatings for non-consumer use. Based on test data on analogous isocyanates, EPA identified concerns for dermal sensitization, respiratory sensitization, and irritation. For the non-consumer use described in the PMNs, worker inhalation exposures will be minimal due to the use of a NIOSH-certified respirator with an APF of at least 10. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substances may present an unreasonable risk. EPA has determined, however, that any use of the substances without a NIOSH-certified respirator with an APF of at least 10, where there is a potential of inhalation exposures, or any consumer use of the substances may result in human exposures which may cause serious health effects. Based on this information, the PMN substances meet the concern criteria at § 721.170(b)(3)(ii).

Recommended testing: EPA has determined that the results of a dermal sensitization test (OPPTS Test Guideline 870.2600) and a 90-day inhalation toxicity test (OPPTS 870.3465) in rodents would help characterize the human health effects of the PMN substances.

CFR citation: 40 CFR 721.10581.

PMN Number P–10–571

Chemical name: Quaternary ammonium compound (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as an inhibitor for oil field applications. Based on EcoSAR on analogous cationic surfactants, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 47 ppb of the PMN substance in surface waters. As described in the PMN, releases of the PMN substance are not expected to result in surface water concentrations that exceed 47 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 47 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a ready biodegradability test (OPPTS Test Guideline 835.3110); a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental and fate effects of the PMN substance. EPA also recommends that the special considerations for conducting aquatic laboratory studies (OPPTS Test Guideline 850.1000) be followed.

CFR citation: 40 CFR 721.10582.

PMN Number P–10–588

Chemical name: Benzenamine, 4,4'-[1,3-phenylenebis(1-methylethylidene)]bis-.

CAS number: 2687–27–6.

Basis for action: The PMN states that the use will be as a precursor to a polyimide resin. Based on SAR analysis of test data on analogous aromatic amines, EPA identified concerns for chronic organ effects, developmental toxicity and reproductive toxicity from exposures to the PMN substance. In addition, based on EcoSAR analysis of test data on analogous aromatic amines, EPA predicts toxicity to aquatic organisms at concentrations that exceed

1 ppb of the PMN substance in surface waters. As described in the PMN, inhalation exposures are expected to be minimal due to the use of a NIOSH-certified particulate respirator with an APF of at least 1,000 and releases to surface waters are not expected. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance without a NIOSH-certified particulate respirator with an APF of at least 1,000, where there is potential for inhalation exposures, or any use of the substance resulting in surface water concentrations exceeding 1 ppb may cause serious health effects and significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170 (b)(3)(ii) and (b)(4)(ii).

Recommended testing: EPA has determined that the results of a log Kow test (OPPTS Test Guideline 830.7550, 830.7560 or 830.7570; or OECD Test Guideline 123); a ready biodegradability test (OPPTS Test Guideline 835.3110); and a combined repeated dose toxicity with the reproduction/development toxicity screening test (OPPTS Test Guideline 835.3650) would help characterize the human health and environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10583.

PMN Number P–11–29

Chemical name: Cyclopentene, 1,3,3,4,4,5,5-heptafluoro-.

CAS number: 1892–03–1.

Basis for action: The PMN states that the substance will be used as a dry etching agent for production of semiconductors. Based on test data on the PMN substance and SAR analysis of test data on analogous halogenated hydrocarbons, EPA identified concerns for chronic toxicity from exposure to the PMN substance. In addition, based on EcoSAR analysis of analogous neutral organic compounds, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 2 ppb of the PMN substance in surface waters for greater than 20 days per year. This 20-day criterion is derived from partial life cycle tests (daphnid chronic and fish early-life stage tests) that typically range from 21 to 28 days in duration. EPA predicts toxicity to aquatic organisms may occur if releases of the PMN substance to surface water exceed releases from the use described in the PMN. Significant exposures are not expected at a production volume of less than 10,000 kg per year. In addition, there is no consumer use or domestic manufacture for the PMN substance. Further, for the use described in the PMN, environmental releases did not exceed 2 ppb for more than 20 days per year. Therefore, EPA has not determined that the proposed processing or use of the substance may present an unreasonable risk. EPA has determined, however, that any domestic manufacture; any use of the substance other than as a dry etching agent for production of semiconductors; any use in a consumer product; or exceedance of the annual import limit of 10,000 kg per year could change exposure potential and may cause serious health effects and significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170 (b)(3)(i), (b)(3)(ii), (b)(4)(i), and (b)(4)(ii).

Recommended testing: EPA has determined that the results of a 90-day repeated dose inhalation test (OPPTS Test Guideline 870.3465); a fish early-life stage toxicity test (OPPTS Test Guideline 850.1400); and a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300) would help characterize the human health and environmental effects of the PMN substance. EPA also recommends that the special considerations for conducting aquatic laboratory studies (OPPTS Test Guideline 850.1000) be followed.

CFR citation: 40 CFR 721.10584.

PMN Numbers P–11–43 and P–11–44

Chemical names: (P–11–43) Disiloxane, 1-butyl-1,1,3,3-tetramethyl- and (P–11–44) Disiloxane, 1,3-dibutyl-1,1,3,3-tetramethyl-.

CAS numbers: (P–11–43) 121263–51–2 and (P–11–44) 4619–08–3.

Basis for action: The PMN states that the use of the substances will be as reducing agents for organic substrates and as chemical intermediates. Based on EcoSAR analysis of test data on analogous neutral organic compounds, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the PMN substances in surface waters. As described in the PMNs, the substances are not released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substances may present an unreasonable risk. EPA has determined, however, that any use of the substances resulting in surface water concentrations exceeding 1 ppb may cause significant adverse environmental effects. Based on this information, the PMN substances meet the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish early-life stage toxicity test (OPPTS Test Guideline 850.1400); a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the PMN substances. EPA also recommends that the special considerations for conducting aquatic laboratory studies (OPPTS Test Guideline 850.1000) be followed.

CFR citations: 40 CFR 721.10585 (P–11–43) and 40 CFR 721.18586 (P–11–44).

PMN Number P–11–81

Chemical name: 1H-Pyrazole, 3,4-dimethyl-.

CAS number: 2820–37–3.

Basis for action: The PMN states that the use of the substance will be as an intermediate. Based on EcoSAR analysis of test data on analogous pyrazoles, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 19 ppb of the PMN substance in surface waters. As described in the PMN, the substance is not released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 19 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of: either a ready biodegradability test (OPPTS Test Guideline 835.3110) or a porous pot test (OPPTS Test Guideline 835.3220); a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental and fate effects of the PMN substance.

CFR citation: 40 CFR 721.10587.

PMN Number P–11–98

Chemical name: Phenol, 2-[1-[[3-(1H-imidazol-1-yl)propyl]imino]ethyl]-.

CAS number: 1253404–90–8.

Basis for action: The PMN states that the generic (non-confidential) use will be as an epoxy catalyst. Based on EcoSAR analysis of test data on analogous phenols, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of

the PMN substance in surface waters. As described in the PMN, the substance is not released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 1 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a ready biodegradability test (OPPTS Test Guidelines 835.3110); a hydrolysis as a function of pH test (OPPTS Test Guideline 835.2110); an aerobic treatment simulation test (OECD Test Guideline 303A); a fish acute toxicity test, freshwater and marine (OPPTS Test Guidelines 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental and fate effects of the PMN substance. EPA also recommends that the special considerations for conducting aquatic laboratory studies (OPPTS Test Guideline 850.1000) be followed.

CFR citation: 40 CFR 721.10588.

PMN Numbers P–11–106 and P–11–107

Chemical names: (P–11–106) Unsaturated fatty acids, amides with polyethylenepolyamine (generic) and (P–11–107) Fatty acids, amides with triethylentetramine (generic).

CAS numbers: Not available.

Basis for action: The PMNs state that substances will be used as a surfactant in asphalt emulsion (P–11–106) and an anti-stripping agent in asphalt (P–11–107). Based on EcoSAR analysis of test data on analogous aliphatic amines, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the PMN substances in surface waters. As described in the PMN, the substances are not released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substances may present an unreasonable risk. EPA has determined, however, that any use of the substances resulting in surface water concentrations exceeding 1 ppb may cause significant adverse environmental effects. Based on this information, the PMN substances meet the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the PMN substances. EPA also recommends that the special considerations for conducting aquatic laboratory studies (OPPTS Test Guideline 850.1000) be followed.

CFR citations: 40 CFR 721.10589 (P–11–106) and 40 CFR 721.10590 (P–11–107).

PMN Number P–11–110

Chemical name: Tertiary ammonium compound (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as an inhibitor for oil field applications. Based on EcoSAR analysis of test data on analogous aliphatic amines, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the PMN substance in surface waters. As described in the PMN, the substance is not released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 1 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish early-life stage test, freshwater and marine (OPPTS Test Guideline 850.1400); a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300); and a mysid chronic toxicity test (OPPTS Test Guideline 850.1350) in salt water would help characterize the environmental effects of the PMN substance. EPA also recommends that the special considerations for conducting aquatic laboratory studies (OPPTS Test Guideline 850.1000) be followed.

CFR citation: 40 CFR 721.10591.

PMN Number P–11–130

Chemical name: 1-Butanol, 4-amino-.

CAS number: 13325–10–5.

Basis for action: The PMN states that the PMN substance will be used as an intermediate. Based on SAR analysis of test data on analogous aliphatic amines, EPA identified concerns for neurotoxicity, liver toxicity, and kidney toxicity from exposures to the PMN substance. For the intermediate use described in the PMN, significant worker exposures are not expected. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, use of the substance other than as an intermediate may cause serious health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(3)(ii).

Recommended testing: EPA has determined that the results of a ready biodegradability test (OPPTS Test Guideline 835.3110); an acute oral toxicity test (OPPTS Test Guideline 870.1100); a repeated dose 28-day oral toxicity in rodents (OPPTS Test Guideline 870.3050) including a neurotoxicity functional observational battery, as described in the neurotoxicity screening battery (OPPTS Test Guideline 870.6200); a bacterial reverse mutation test (OPPTS Test Guideline 870.5100); and a mammalian erythrocyte micronucleus test (OPPTS Test Guideline 870.5395) via the intraperitoneal route would help characterize the human health and fate effects of the PMN substance.

CFR citation: 40 CFR 721.10592.

PMN Number P–11–162

Chemical name: 5-Isobenzofurancarboxylic acid, 1,3-dihydro-1,3-dioxo-, 2-[(2-methyl-1-oxo-2-propen-1-yl)oxy]ethyl ester.

CAS number: 70293–55–9.

Basis for action: The PMN states that the substance will be uses as an adhesive monomer. Based on EcoSAR analysis of test data on analogous esters and methacrylates, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 20 ppb of the PMN substance in surface waters. As described in the PMN, releases of the substance are not expected to result in surface water concentrations that exceed 20 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 20 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an aquatic invertebrate acute

toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the PMN substance. EPA also recommends that the special considerations for conducting aquatic laboratory studies (OPPTS Test Guideline 850.1000) be followed.

CFR citation: 40 CFR 721.10593.

PMN Number P–11–173

Chemical name: Hexanedioic acid, polymer with 2,2-dimethyl-1,3-propanediol, 1,6-hexanediol, hydrazine, 3-hydroxy-2-(hydroxymethyl)-2-methylpropanoic acid, 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane and 1,1'-[(1-methylethylidene)bis(4,1-phenyleneoxy)]bis[2-propanol], iso-Bu alc.-blocked, compds. with triethylamine.

CAS number: 1138156–39–4.

Basis for action: The PMN states that the generic (non-confidential) use for the substance will be as a coating for wooden floors. Based on EcoSAR analysis of test data on analogous amphoteric polymers, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 150 ppb for the PMN substance in surface waters. As described in the PMN, releases of the substance to surface waters are not expected to result in surface water concentrations that exceed 150 ppb, due to pretreatment by primary, secondary, and tertiary waste treatment, or treatment in a lined, self-contained solar evaporation pond. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 150 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the PMN substance. EPA also recommends that the special considerations for conducting aquatic laboratory studies (OPPTS Test Guideline 850.1000) be followed.

CFR citation: 40 CFR 721.10594.

PMN Number P–11–230

Chemical name: Octadecen-1-aminium, N-ethyl-N,N-dimethy-, ethyl sulfate (1:1).

CAS number: 1256282–88–8.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as an antistatic agent for acrylic yarn. Based on EcoSAR analysis of test data on cationic surfactants, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 4 ppb of the PMN substance in surface waters. As described in the PMN, the substance is not released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 4 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075) in clean dilution water; a fish acute toxicity test mitigated by humic acid (OPPTS Test Guideline 850.1085); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the PMN substance. EPA also recommends that the special considerations for conducting aquatic laboratory studies (OPPTS Test Guideline 850.1000) be followed.

CFR citation: 40 CFR 721.10595.

PMN Number P–11–234

Chemical name: Oligomeric phenolic ether (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a chemical intermediate. Based on EcoSAR analysis of test data on analogous neutral organic chemicals, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the PMN substance in surface waters. As described in the PMN, the substance is not released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 1 ppb may cause significant adverse environmental effects and result in substantial human exposure via drinking water or fish ingestion. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a ready biodegradability test (OPPTS Test Guideline 835.3110); an acute toxicity test (OPPTS Test Guideline 870.1000); a mammalian erythrocyte micronucleus test (OPPTS Test Guideline 870.5395); a repeated dose 28-day oral toxicity test in rodents (OPPTS Test Guideline 870.3050); a bacterial reverse mutation test (OPPTS Test Guideline 870.5100); a fish BCF test (OPPTS Test Guideline 850.1730); a fish early-life stage toxicity test (OPPTS Test Guideline 850.1400); a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the human health and environmental effects of the PMN substance. EPA also recommends that the special considerations for conducting aquatic laboratory studies (OPPTS Test Guideline 850.1000) be followed.

CFR citation: 40 CFR 721.10596.

PMN Number P–11–252

Chemical name: Benzeneacetonitrile, alkoxy-[[(alkylsulfonyl)oxy]imino]-(generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a photographic chemical. Based on EcoSAR analysis of test data on analogous vinyl/allyl nitriles, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the PMN substance in surface waters. As described in the PMN, the substance is not released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 1 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish early-life stage toxicity test (OPPTS Test Guideline 850.1400); a daphnid chronic toxicity test (OPPTS Test Guideline 850.1300); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the PMN substance. EPA also

recommends that the special considerations for conducting aquatic laboratory studies (OPPTS Test Guideline 850.1000) be followed.

CFR citation: 40 CFR 721.10597.

PMN Numbers P–11–270, P–11–271, P–11–272, P–11–273, and P–11–274

Chemical names: (P–11–270) Lead strontium titanium zirconium oxide; (P–11–271) Calcium cobalt lead titanium tungsten oxide; (P–11–272) Calcium cobalt lead strontium titanium tungsten oxide; (P–11–273) Lanthanum lead titanium zirconium oxide; and (P–11–274) Lead niobium titanium zirconium oxide.

CAS numbers: (P–11–270) 61461–40–3; (P–11–271) 1262279–31–1; (P–11–272) 1262279–30–0; (P–11–273) 1227908–26–0; and (P–11–274) 56572–83–9.

Basis for action: The PMNs state that the substances will be used as piezoelectric ceramics for active and passive underwater acoustic systems. Based on test data on lead and SAR analysis of test data on analogous respirable, poorly soluble particulates, EPA identified concerns for neurobehavioral and other neurological effects, cerebrovascular disease, high blood pressure, renal effects, cardiac effects, lung effects, neurological effects, hematological effects, reproductive toxicity, and immunotoxicity. In addition, based on EcoSAR analysis of test data on analogous inorganic lead compounds, EPA expects toxicity to aquatic organisms to occur at concentrations that exceed an aggregate of 8 ppb of the PMN substances in surface waters. For the uses described in the PMNs, worker inhalation exposures are expected to be minimal due to use of a NIOSH-certified respirator with an APF of at least 50, and releases of the PMN substances are not expected to result in an aggregate surface water concentration that exceeds 8 ppb. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substances may present an unreasonable risk. EPA has determined, however, that any use of the substances without the use of a NIOSH-certified respirator with an APF of at least 50, where there is a potential for inhalation exposures; any use of the substances other than as piezoelectric ceramics for active and passive underwater acoustic systems; or any use of the substances resulting in an aggregate surface water concentration exceeding 8 ppb may cause serious health effects and significant adverse environmental effects. Based on this information the PMN substances meet the concern criteria at § 721.170 (b)(3)(i) and (b)(4)(ii).

Recommended testing: EPA has determined that inhalation monitoring data, collected according to the EPA draft Inhalation Monitoring Data Collection Guidelines (located in the docket under docket ID number EPA–HQ–OPPT–2012–0277) would help characterize the human health effects of the PMN substances.

CFR citations: 40 CFR 721.10598 (P–11–270); 40 CFR 721.10599 (P–11–271); 40 CFR 721.10600 (P–11–272); 40 CFR 721.10601 (P–11–273); and 40 CFR 721.10602 (P–11–274).

PMN Number P–11–280

Chemical name: Epoxy modified alkyd resin, partially neutralized (generic).

CAS number: Not available.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a coating resin. Based on EcoSAR analysis of test data on analogous phosphates, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 1 ppb of the PMN substance in surface waters. As described in the PMN, the substance is not released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 1 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of an algal toxicity test (OCSPP Test Guideline 850.4500) without adding phosphate would help characterize the environmental effects of the PMN substance. EPA also recommends that the special considerations for conducting aquatic laboratory studies (OPPTS Test Guideline 850.1000) be followed.

CFR citation: 40 CFR 721.10603.

PMN Number P–11–447

Chemical name: Polyetherdiamine (generic).

CAS number: Not available.

Basis for action: The PMN states that the substance will be used as a gas treatment chemical for the removal of hydrogen sulfide from natural gas. Based on EcoSAR analysis of test data on analogous aliphatic amines, EPA predicts toxicity to aquatic organisms may occur at concentrations that exceed 4 ppb of the PMN substance in surface waters. As described in the PMN, the substance is not released to surface waters. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance resulting in surface water concentrations exceeding 4 ppb may cause significant adverse environmental effects. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(ii).

Recommended testing: EPA has determined that the results of a fish acute toxicity test, freshwater and marine (OPPTS Test Guideline 850.1075); an aquatic invertebrate acute toxicity test, freshwater daphnids (OPPTS Test Guideline 850.1010); and an algal toxicity test (OCSPP Test Guideline 850.4500) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.10604.

PMN Numbers P–11–485, P–11–486, P–11–488, and P–11–489

Chemical names: (P–11–485) Polyoxyalkylene ether, polymer with aliphatic diisocyanate, homopolymer, alkanol-blocked (generic); (P–11–486) Alkyl substituted alkanediol polymer with aliphatic and alicyclic diisocyanates (generic); (P–11–488) Aliphatic diisocyanate, homopolymer, alkanol-blocked (generic); and (P–11–489) Aliphatic diisocyanate polymer with alkanediol and alkylglycol (generic).

CAS numbers: Not available.

Basis for action: The PMNs state that the generic (non-confidential) use of the substances will be as hardeners for industrial coatings. Based on test data on analogous diisocyanates (including TSCA section 8(e) data on polymeric MDI), EPA identified concerns for oncogenicity. Also, based on test data on the PMN substances, the Agency identified concerns for lung and mucous membranes irritation as well as sensitization to workers from exposures to the PMN substances. For the uses and at the production volumes stated in the PMN, worker inhalation exposures will be minimal due to use of a NIOSH-certified respirator with an APF of at least 10, and there are no consumer exposures.

Therefore, EPA has not determined that the proposed manufacturing, processing, or use of these substances may present an unreasonable risk. EPA has determined, however, that any use of the substance without a NIOSH-certified respirator with an APF of at least 10, where there is a potential for

inhalation exposures; any substantial increase of the annual manufacturing and importation volume of 10,000 kgs; or any use of the substances in consumer products may cause serious health effects. Based on this information, the PMN substances meets the concern criteria at § 721.170 (b)(1)(i)(C), (b)(3)(i), and (b)(3)(ii).

Recommended testing: EPA has determined that the results of a 90-day inhalation toxicity test (OPPTS Test Guideline 870.3465) on PMNs P–11–485, P–11–486, and either P–11–488 or P–1l–489, would help characterize the human health effects of the PMN substances.

CFR citations: 40 CFR 721.10605 (P–11–485); 40 CFR 721.10606 (P–11–486); 40 CFR 721.10607 (P–11–488); and 40 CFR 721.105608 (P–11–489).

PMN Number P–11–548

Chemical name: Imidodicarbonic diamide, N,N'-dibutyl-N',2-bis[4-[(4-isocyanatophenyl)methyl]phenyl]-.

CAS number: 1254743–03–7.

Basis for action: The PMN states that the generic (non-confidential) use of the substance will be as a polymer crosslinking agent. Based on SAR analysis of test data on analogous diisocyanates, EPA identified concerns for oncogenicity, sensitization, lung irritation, and mucous membrane irritation from exposure to the PMN substance. For the non-consumer use described in the PMN, inhalation exposures are not expected as the substance is not applied by a method that generates a vapor, mist, or aerosol. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of the substance may present an unreasonable risk. EPA has determined, however, that any use of the substance in consumer products; or any use of the substance involving an application method that generates a vapor, mist, or aerosol may cause serious health effects. Based on this information, the PMN substance meets the concern criteria at § 721.170 (b)(1)(i)(C) and (b)(3)(ii).

Recommended testing: EPA has determined that the results of skin sensitization test (OPPTS Test Guideline 870.2600) and a 90-day inhalation toxicity test (OPPTS Test Guideline 870.3465) in rats would help characterize the human health effects of the PMN substance.

CFR citation: 40 CFR 721.10609.

PMN Numbers P–11–635 and P–11–636

Chemical names: Toluene diisocyanate, polymers with polyalkylene glycol (generic).

CAS numbers: Not available.

Basis for action: The PMNs state that the generic (non-confidential) use of the substances will be as reactants for the production of polyurethane elastomers. Based on SAR analysis of test data on analogous diisocyanates, EPA identified concerns for oncogenicity, irritation to lungs and mucous membranes, and sensitization to workers from exposure to the PMN substances. For the uses described in the PMNs significant worker exposure is unlikely because there are no applications generating a vapor, mist or aerosol, and there are no consumer exposures. Therefore, EPA has not determined that the proposed manufacturing, processing, or use of these substances may present an unreasonable risk. EPA has determined, however, that use of any of the substances in consumer products; or any use of the substance involving an application method that generates a vapor, mist, or aerosol may cause serious health effects. Based on this information, the PMN substances meet the concern criteria at § 721.170 (b)(1)(i)(C) and (b)(3)(ii).

Recommended testing: EPA has determined that the results of a dermal sensitization test (OPPTS Test Guideline 870.2600) and a 90-day inhalation toxicity test (OPPTS Test Guideline 870.3465) would help characterize the human health effects of the PMN substances.

CFR citation: 40 CFR 721.10610.

V. Rationale and Objectives of the Rule

A. Rationale

During review of the PMNs submitted for the chemical substances that are subject to these SNURs, EPA concluded that for 7 of the 78 chemical substances, regulation was warranted under TSCA section 5(e), pending the development of information sufficient to make reasoned evaluations of the health or environmental effects of the chemical substances. The basis for such findings is outlined in Unit IV. Based on these findings, TSCA section 5(e) consent orders requiring the use of appropriate exposure controls were negotiated with the PMN submitters. The SNUR provisions for these chemical substances are consistent with the provisions of the TSCA section 5(e) consent orders. These SNURs are promulgated pursuant to § 721.160 (see Unit II.).

In the other 71 cases, where the uses are not regulated under a TSCA section 5(e) consent order, EPA determined that one or more of the criteria of concern established at § 721.170 were met, as discussed in Unit IV.

B. Objectives

EPA is issuing these SNURs for specific chemical substances which have undergone premanufacture review because the Agency wants to achieve the following objectives with regard to the significant new uses designated in this rule:

- EPA will receive notice of any person's intent to manufacture, import, or process a listed chemical substance for the described significant new use before that activity begins.
- EPA will have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing, importing, or processing a listed chemical substance for the described significant new use.
- EPA will be able to regulate prospective manufacturers, importers, or processors of a listed chemical substance before the described significant new use of that chemical substance occurs, provided that regulation is warranted pursuant to TSCA sections 5(e), 5(f), 6, or 7.
- EPA will ensure that all manufacturers, importers, and processors of the same chemical substance that is subject to a TSCA section 5(e) consent order are subject to similar requirements.

Issuance of a SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Chemical Substance Inventory (TSCA Inventory). Guidance on how to determine if a chemical substance is on the TSCA Inventory is available on the Internet at *http://www.epa.gov/opptintr/existingchemicals/pubs/tscainventory/index.html.*

VI. Direct Final Procedures

EPA is issuing these SNURs as a direct final rule, as described in § 721.160(c)(3) and § 721.170(d)(4). In accordance with § 721.160(c)(3)(ii) and § 721.170(d)(4)(i)(B), the effective date of this rule is December 4, 2012 without further notice, unless EPA receives written adverse or critical comments, or notice of intent to submit adverse or critical comments before November 5, 2012.

If EPA receives written adverse or critical comments, or notice of intent to submit adverse or critical comments, on one or more of these SNURs before November 5, 2012, EPA will withdraw the relevant sections of this direct final rule before its effective date. EPA will then issue a proposed SNUR for the chemical substance(s) on which adverse or critical comments were received, providing a 30-day period for public comment.

This rule establishes SNURs for 78 chemical substances. Any person who submits adverse or critical comments, or notice of intent to submit adverse or critical comments, must identify the chemical substance and the new use to which it applies. EPA will not withdraw a SNUR for a chemical substance not identified in the comment.

VII. Applicability of Rule to Uses Occurring Before Effective Date of the Rule

Significant new use designations for a chemical substance are legally established as of the date of publication of this direct final rule, October 5, 2012.

To establish a significant "new" use, EPA must determine that the use is not ongoing. The chemical substances subject to this rule have undergone premanufacture review. TSCA section 5(e) consent orders have been issued for 7 chemical substances and the PMN submitters are prohibited by the TSCA section 5(e) consent orders from undertaking activities which EPA is designating as significant new uses. In cases where EPA has not received a notice of commencement (NOC) and the chemical substance has not been added to the TSCA Inventory, no other person may commence such activities without first submitting a PMN. For chemical substances for which an NOC has not been submitted at this time, EPA concludes that the uses are not ongoing. However, EPA recognizes that prior to the effective date of the rule, when chemical substances identified in this SNUR are added to the TSCA Inventory, other persons may engage in a significant new use as defined in this rule before the effective date of the rule. However, 40 of the 78 chemical substances contained in this rule have CBI chemical identities, and since EPA has received a limited number of post-PMN *bona fide* submissions (per §§ 720.25 and 721.11), the Agency believes that it is highly unlikely that any of the significant new uses described in the regulatory text of this rule are ongoing.

As discussed in the **Federal Register** of April 24, 1990 (55 FR 17376), EPA has decided that the intent of TSCA section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of publication of this direct final rule rather than as of the effective date of the rule. If uses begun after publication were considered ongoing rather than new, it would be difficult for EPA to establish SNUR notification requirements because a person could defeat the SNUR by initiating the significant new use before the rule became effective, and then argue that the use was ongoing before the effective date of the rule. Thus, persons who begin commercial manufacture, import, or processing of the chemical substances regulated through this SNUR will have to cease any such activity before the effective date of this rule. To resume their activities, these persons would have to comply with all applicable SNUR notification requirements and wait until the notice review period, including any extensions expires.

EPA has promulgated provisions to allow persons to comply with this SNUR before the effective date. If a person meets the conditions of advance compliance under § 721.45(h), the person is considered exempt from the requirements of the SNUR.

VIII. Test Data and Other Information

EPA recognizes that TSCA section 5 does not require developing any particular test data before submission of a SNUN. The two exceptions are:

1. Development of test data is required where the chemical substance subject to the SNUR is also subject to a test rule under TSCA section 4 (see TSCA section 5(b)(1)).

2. Development of test data may be necessary where the chemical substance has been listed under TSCA section 5(b)(4) (see TSCA section 5(b)(2)).

In the absence of a TSCA section 4 test rule or a TSCA section 5(b)(4) listing covering the chemical substance, persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them (see § 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing. In cases where EPA issued a TSCA section 5(e) consent order that requires or recommends certain testing, Unit IV. lists those tests. Unit IV. also lists recommended testing for non-section 5(e) SNURs. Descriptions of tests are provided for informational purposes. EPA strongly encourages persons, before performing any testing, to consult with the Agency pertaining to protocol selection. To access the OCSPP test guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select "Test Methods and Guidelines." or for guidelines that are not currently available on the Web site, EPA has placed a copy of that guideline in the public docket. The OECD test guidelines are available from the OECD Bookshop at *http://www.oecdbookshop.org* or Source OECD at *http://www.sourceoecd.org.*

In the TSCA section 5(e) consent orders for 7 of the chemical substances regulated under this rule, EPA has established production volume limits in view of the lack of data on the potential health and environmental risks that may be posed by the significant new uses or increased exposure to the chemical substances. These limits cannot be exceeded unless the PMN submitter first submits the results of toxicity tests that would permit a reasoned evaluation of the potential risks posed by these chemical substances. Under recent TSCA section 5(e) consent orders, each PMN submitter is required to submit each test at least 14 weeks (earlier TSCA section 5(e) consent orders required submissions at least 12 weeks) before reaching the specified production limit. Listings of the tests specified in the TSCA section 5(e) consent orders are included in Unit IV. The SNURs contain the same production volume limits as the TSCA section 5(e) consent orders. Exceeding these production limits is defined as a significant new use. Persons who intend to exceed the production limit must notify the Agency by submitting a SNUN at least 90 days in advance of commencement of non-exempt commercial manufacture, import, or processing.

The recommended tests specified in Unit IV. may not be the only means of addressing the potential risks of the chemical substance. However, submitting a SNUN without any test data may increase the likelihood that EPA will take action under TSCA section 5(e), particularly if satisfactory test results have not been obtained from a prior PMN or SNUN submitter. EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on the following:

- Human exposure and environmental release that may result from the significant new use of the chemical substances.
- Potential benefits of the chemical substances.
- Information on risks posed by the chemical substances compared to risks posed by potential substitutes.

IX. Procedural Determinations

By this rule, EPA is establishing certain significant new uses which have been claimed as CBI subject to Agency confidentiality regulations at 40 CFR part 2 and 40 CFR part 720, subpart E. Absent a final determination or other disposition of the confidentiality claim

under 40 CFR part 2 procedures, EPA is required to keep this information confidential. EPA promulgated a procedure to deal with the situation where a specific significant new use is CBI, at 40 CFR 721.1725(b)(1).

Under these procedures a manufacturer, importer, or processor may request EPA to determine whether a proposed use would be a significant new use under the rule. The manufacturer, importer, or processor must show that it has a *bona fide* intent to manufacture, import, or process the chemical substance and must identify the specific use for which it intends to manufacture, import, or process the chemical substance. If EPA concludes that the person has shown a *bona fide* intent to manufacture, import, or process the chemical substance, EPA will tell the person whether the use identified in the *bona fide* submission would be a significant new use under the rule. Since most of the chemical identities of the chemical substances subject to these SNURs are also CBI, manufacturers, importers, and processors can combine the *bona fide* submission under the procedure in § 721.1725(b)(1) with that under § 721.11 into a single step.

If EPA determines that the use identified in the *bona fide* submission would not be a significant new use, i.e., the use does not meet the criteria specified in the rule for a significant new use, that person can manufacture, import, or process the chemical substance so long as the significant new use trigger is not met. In the case of a production volume trigger, this means that the aggregate annual production volume does not exceed that identified in the *bona fide* submission to EPA. Because of confidentiality concerns, EPA does not typically disclose the actual production volume that constitutes the use trigger. Thus, if the person later intends to exceed that volume, a new *bona fide* submission would be necessary to determine whether that higher volume would be a significant new use.

X. SNUN Submissions

According to § 721.1(c), persons submitting a SNUN must comply with the same notification requirements and EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in § 720.50. SNUNs must be submitted on EPA Form No. 7710–25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in §§ 721.25 and 720.40. E-PMN software is available electronically at *http://www.epa.gov/opptintr/newchems.*

XI. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers, importers, and processors of the chemical substances subject to this rule. EPA's complete economic analysis is available in the docket under docket ID number EPA–HQ–OPPT–2012–0277.

XII. Statutory and Executive Order Reviews

A. Executive Order 12866

This rule establishes SNURs for several new chemical substances that were the subject of PMNs and, in some cases, TSCA section 5(e) consent orders. 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).

B. Paperwork Reduction Act (PRA)

According to PRA (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable. EPA is amending the table in 40 CFR part 9 to list the OMB approval number for the information collection requirements contained in this rule. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the display requirements of PRA and OMB's implementing regulations at 5 CFR part 1320. This Information Collection Request (ICR) was previously subject to public notice and comment prior to OMB approval, and given the technical nature of the table, EPA finds that further notice and comment to amend it is unnecessary. As a result, EPA finds that there is "good cause" under section 553(b)(3)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)) to amend this table without further notice and comment.

The information collection requirements related to this action have already been approved by OMB pursuant to PRA under OMB control number 2070–0012 (EPA ICR No. 574). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, Collection Strategies Division, Office of Environmental Information (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

C. Regulatory Flexibility Act (RFA)

On February 18, 2012, EPA certified pursuant to RFA section 605(b) (5 U.S.C. 601 *et seq.*), that promulgation of a SNUR does not have a significant economic impact on a substantial number of small entities where the following are true:

1. A significant number of SNUNs would not be submitted by small entities in response to the SNUR.
2. The SNUR submitted by any small entity would not cost significantly more than $8,300.

A copy of that certification is available in the docket for this rule.

This rule is within the scope of the February 18, 2012 certification. Based on the Economic Analysis discussed in Unit XI. and EPA's experience promulgating SNURs (discussed in the certification), EPA believes that the following are true:

- A significant number of SNUNs would not be submitted by small entities in response to the SNUR.
- Submission of the SNUN would not cost any small entity significantly more than $8,300.

Therefore, the promulgation of the SNUR would not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act (UMRA)

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by this rule. As such, EPA has determined that this rule does not impose any

enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of UMRA sections 202, 203, 204, or 205 (2 U.S.C. 1501 *et seq.*).

E. Executive Order 13132

This action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999).

F. Executive Order 13175

This rule does not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This rule does not significantly nor uniquely affect the communities of Indian Tribal governments, nor does it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), do not apply to this rule.

G. Executive Order 13045

This action is not subject to Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

H. Executive Order 13211

This action 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), because this action is not expected to affect energy supply, distribution, or use and because this action is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

Since this action does not involve any technical standards, NTTAA section 12(d) (15 U.S.C. 272 note), does not apply to this action.

J. Executive Order 12898

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898, entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (59 FR 7629, February 16, 1994).

XIV. 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

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: September 24, 2012.

Maria J. Doa,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR parts 9 and 721 are amended as follows:

PART 9—[AMENDED]

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

Authority: 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

■ 2. In § 9.1, add the following entries in numerical order under the undesignated center heading "Significant New Uses of Chemical Substances" to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB Control No.
* * *	* *
Significant New Uses of Chemical Substances	
* * *	* *
721.10426	2070–0012
721.10537	2070–0012
721.10538	2070–0012
721.10539	2070–0012
721.10540	2070–0012
721.10541	2070–0012
721.10542	2070–0012
721.10543	2070–0012
721.10544	2070–0012
721.10545	2070–0012
721.10546	2070–0012
721.10547	2070–0012
721.10548	2070–0012
721.10549	2070–0012
721.10550	2070–0012
721.10551	2070–0012
721.10552	2070–0012
721.10553	2070–0012
721.10554	2070–0012
721.10555	2070–0012
721.10556	2070–0012
721.10557	2070–0012
721.10558	2070–0012
721.10559	2070–0012
721.10560	2070–0012
721.10561	2070–0012
721.10562	2070–0012
721.10563	2070–0012
721.10564	2070–0012
721.10565	2070–0012
721.10566	2070–0012
721.10567	2070–0012
721.10568	2070–0012
721.10569	2070–0012
721.10570	2070–0012
721.10571	2070–0012
721.10572	2070–0012
721.10573	2070–0012
721.10574	2070–0012
721.10575	2070–0012
721.10576	2070–0012
721.10577	2070–0012
721.10578	2070–0012
721.10579	2070–0012
721.10580	2070–0012
721.10581	2070–0012
721.10582	2070–0012
721.10583	2070–0012
721.10584	2070–0012
721.10585	2070–0012
721.10586	2070–0012
721.10587	2070–0012
721.10588	2070–0012
721.10589	2070–0012
721.10590	2070–0012
721.10591	2070–0012
721.10592	2070–0012
721.10593	2070–0012
721.10594	2070–0012
721.10595	2070–0012
721.10596	2070–0012
721.10597	2070–0012
721.10598	2070–0012
721.10599	2070–0012
721.10600	2070–0012

40 CFR citation	OMB Control No.
721.10601	2070–0012
721.10602	2070–0012
721.10603	2070–0012
721.10604	2070–0012
721.10605	2070–0012
721.10606	2070–0012
721.10607	2070–0012
721.10608	2070–0012
721.10609	2070–0012
721.10610	2070–0012

* * * * *

PART 721—[AMENDED]

■ 3. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 4. Add § 721.10426 to subpart E to read as follows:

§ 721.10426 1-Octadecanol, manuf. of, distn. lights, fractionation heavies, distn. lights.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1-octadecanol, manuf. of, distn. lights, fractionation heavies, distn. lights (PMN P–00–535; CAS No. 243640–46–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j)(feedstock for esterification).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 5. Add § 721.10537 to subpart E to read as follows:

§ 721.10537 Acrylate ester (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as acrylate ester (PMN P–01–579) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=50).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 6. Add § 721.10538 to subpart E to read as follows:

§ 721.10538 Phosphonium, tetrakis (hydroxymethyl)-, chloride (1:1), reaction products with 1-tetradecanamine and urea.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as phosphonium, tetrakis(hydro xymethyl)-, chloride (1:1), reaction products with 1-tetradecanamine and urea (PMN P–02–161; CAS No. 359406–89–6) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N = 2).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 7. Add § 721.10539 to subpart E to read as follows:

§ 721.10539 Bis[phenyl-2H-1,3-benzoxazine]derivative (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as bis[phenyl-2H-1,3-benzoxazine]derivative (PMN P–02–653) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 8. Add § 721.10540 to subpart E to read as follows:

§ 721.10540 1,3-Benzenedimethanamine, N-(2-phenylethyl) derivs.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1,3-benzenedimethanamine, N-(2-phenylethyl) derivs. (PMN P–02–984; CAS No. 404362–22–7) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=5).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 9. Add § 721.10541 to subpart E to read as follows:

§ 721.10541 5,2,6-(Iminomethenimino)-1H-imidazo[4,5-b]pyrazine, octahydro-1,3,4,7,8,10-hexanitro-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 5,2,6-(iminomethenimino)-1H-imidazo[4,5-b]pyrazine, octahydro-1,3,4,7,8,10-hexanitro- (PMN P–03–481; CAS No. 135285–90–4) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(3), (a)(4), (b)(concentration set at 0.1 percent), and (c). The following respirator meets the requirements of § 721.63(a)(4): a

National Institute for Occupational Safety and Health (NIOSH)-certified air purifying respirator with a particulate P100 vapor cartridge or canister.

(ii) *Release to water.* Requirements as specified in § 721.90 (a)(2)(v), (b)(2)(v), and (c)(2)(v).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 10. Add § 721.10542 to subpart E to read as follows:

§ 721.10542 Dodecanedioic acid, 1,12-dimethyl ester.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as dodecanedioic acid, 1,12-dimethyl ester (PMN P–03–624; CAS No. 1731–79–9) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=30).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 11. Add § 721.10543 to subpart E to read as follows:

§ 721.10543 Oxetane, 3-methyl-3-[(2,2,3,3,3-pentafluoropropoxy)methyl]-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as oxetane, 3-methyl-3-[(2,2,3,3,3-pentafluoropropoxy)methyl]- (PMN P–04–79; CAS No. 449177–94–0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(3), (b)(concentration set at 0.1 percent), and (c).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (e) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 12. Add § 721.10544 to subpart E to read as follows:

§ 721.10544 Oxetane, 3-methyl-3-[[(3,3,4,4,5,5,6,6,6-nonafluorohexyl)oxy]methyl]-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as oxetane, 3-methyl-3-[[(3,3,4,4,5,5,6,6,6-nonafluorohexyl)oxy]methyl]- (PMN P–04–80; CAS No. 475678–78–5) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this rule do not apply to quantities of the PMN after it has been completely reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(2)(iii), (a)(3), (b)(concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (e)(concentration set at 0.1 percent), (f), (g)(1)(vi), (g)(1)(viii), (g)(2)(i), (g)(2)(v), (g)(3)(i), (g)(3)(ii), (g)(4)(ii), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(iv) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), (f), (g), (h), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to (a)(2)(iii) of this section.

■ 13. Add § 721.10545 to subpart E to read as follows:

§ 721.10545 Aminotriazine modified cresol novolec resin (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as aminotriazine modified cresol novolec resin (PMN P–04–313) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N = 10).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 14. Add § 721.10546 to subpart E to read as follows:

§ 721.10546 Pentenylated polyethylene glycol sulfate salt (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as pentenylated polyethylene glycol sulfate salt (PMN P–04–340) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 15. Add § 721.10547 to subpart E to read as follows:

§ 721.10547 Dialkyl dimethyl ammonium methylcarbonate (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as dialkyl dimethyl

ammonium methylcarbonate (PMN P–04–587) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 16. Add § 721.10548 to subpart E to read as follows:

§ 721.10548 Mixed alkyl phosphate esters alkoxylated (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as mixed alkyl phosphate esters alkoxylated (PMN P–04–624) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N = 40).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 17. Add § 721.10549 to subpart E to read as follows:

§ 721.10549 Ethane, 1,1,2,2-tetrafluoro-1-(2,2,2-trifluoroethoxy)-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as ethane, 1,1,2,2-tetrafluoro-1-(2,2,2-trifluoroethoxy)- (PMN P–04–635; CAS No. 406–78–0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (f), (j)(cleaning electronic components; precision cleaning; dewatering of electronic components and other parts following aqueous cleaning; and carrier/lubricant coating for hard disk drives and other precision parts), and (l).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 18. Add § 721.10550 to subpart E to read as follows:

§ 721.10550 Rare earth salt of a carboxylic acid (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as rare earth salt of a carboxylic acid (PMN P–05–324) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j).

(ii) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N = 5).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to (a)(2)(i) of this section.

■ 19. Add § 721.10551 to subpart E to read as follows:

§ 721.10551 Bisphenol S mono ether (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as bisphenol S mono ether (PMN P–05–613) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (f) and (j).

(ii) *Release to water.* Requirements as specified in § 721.90 (b)(4) and (c)(4) (N=1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to (a)(2)(i) of this section.

■ 20. Add § 721.10552 to subpart E to read as follows:

§ 721.10552 Oxirane, 2-(1-chlorocyclopropyl)-2-[(2-chlorophenyl)methyl]-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as oxirane, 2-(1-chlorocyclopropyl)-2-[(2-chlorophenyl)methyl]- (PMN P–05–774; CAS No. 134818–68–1) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(3), (b)(concentration set at 0.1 percent), and (c).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(h).

(iii) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=2).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 21. Add § 721.10553 to subpart E to read as follows:

§ 721.10553 Potassium titanium oxide.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as potassium titanium oxide (PMN P–06–149; CAS No. 12673–69–7) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this rule do not apply to quantities of the PMN substance that have been completely reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(4) and (a)(6)(i). The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an assigned protection factor (APF) of at least 10 meet the requirements of § 721.63(a)(4):

(A) NIOSH-certified air-purifying, tight-fitting half-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters.

(B) NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters.

(C) NIOSH-certified powered air-purifying respirator equipped with a loose- fitting hood or helmet and high efficiency particulate air (HEPA) filters.

(D) NIOSH-certified powered air-purifying respirator equipped with a tight-fitting facepiece (either half-face or full-face) and HEPA filters.

(E) NIOSH-certified supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting facepiece (either half-face or full-face).

(*1*) As an alternative to the respiratory requirements listed here, a manufacturer, importer, or processor may choose to follow the new chemical exposure limit (NCEL) provisions listed in the TSCA section 5(e) consent order for this substance. The NCEL is 1.5 mg/m^3. Persons who wish to pursue NCELs as an alternative to the § 721.63 respirator requirements may request to do so under 40 CFR 721.30. Persons whose § 721.30 requests to use the NCELs approach are approved by EPA will receive NCELs provisions comparable to those contained in the corresponding section 5(e) consent order.

(*2*) [Reserved]

(ii) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (f), (g)(1)(ii), (g)(2)(ii), (g)(2)(iv)(use respiratory protection or maintain workplace airborne concentrations at or below an 8-hour time-weighted average of 1.5 mg/m^3), and (a)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (k)(manufacture of the substance with a particle size of at least 100 nanometers).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (f), (g), (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 22. Add § 721.10554 to subpart E to read as follows:

§ 721.10554 Iso-tridecanol (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as iso-tridecanol (PMN P–06–153) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(k) (manufacture of the PMN substance with no greater than an average of three branches per alkyl unit, and routine analysis of representative samples for compliance with the chemical composition section of the consent order).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 23. Add § 721.10555 to subpart E to read as follows:

§ 721.10555 Benzoic acid nonyl ester, branched and linear.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as benzoic acid nonyl ester, branched and linear (PMN P–06–370; CAS No. 670241–72–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(3), (b)(concentration set at 0.1 percent), and (c).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f).

(iii) *Release to water.* Requirements as specified in § 721.90 (b)(4) and (c)(4) (N=6).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 24. Add § 721.10556 to subpart E to read as follows:

§ 721.10556 Poly(oxy-1,2-ethanediyl), .alpha.- (2-methyl-2-propen-1-yl) -.omega.-hydroxy-,C_{12-15}-alkyl ethers.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as poly(oxy-1,2-ethanediyl), .alpha.- (2-methyl-2-propen-1-yl) -.omega.-hydroxy-,C_{12-15}-alkyl ethers (PMN P–06–450; CAS No. 675869–02–0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(s)(45,000 kilograms cumulative production volume of: Poly(oxy-1,2-ethanediyl), .alpha.- (2-methyl-2-propen-1-yl) -.omega.-hydroxy-,C_{12-15}-alkyl ethers (PMN P–06–450; CAS No. 675869–02–00); Poly(oxy-1,2-ethanediyl), .alpha.- (2-methyl-2-propen-1-yl) -.omega.-hydroxy-,C_{10-16}-alkyl ethers (PMN P–06–451; CAS No. 620610–66–4); and Poly(oxy-1,2-ethanediyl), .alpha.- (2-methyl-2-propen-1-yl) -.omega.-hydroxy-,C_{12-16}-alkyl ethers (PMN P–06–452; CAS No. 675869–05–3)).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 25. Add § 721.10557 to subpart E to read as follows:

§ 721.10557 Poly(oxy-1,2-ethanediyl), .alpha.- (2-methyl-2-propen-1-yl) -.omega.-hydroxy-,C_{10-16}-alkyl ethers.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as poly(oxy-1,2-ethanediyl), .alpha.- (2-methyl-2-propen-1-yl) -.omega.-hydroxy-,C_{10-16}-alkyl ethers (PMN P–06–451; CAS No. 620610–66–4) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(s)(45,000 kilograms cumulative production volume of: Poly(oxy-1,2-ethanediyl), .alpha.- (2-methyl-2-propen-1-yl) -.omega.-hydroxy-,C_{12-15}-alkyl ethers (PMN P–06–450; CAS No. 675869–02–00); Poly(oxy-1,2-ethanediyl), .alpha.- (2-methyl-2-propen-1-yl) -.omega.-hydroxy-,C_{10-16}-alkyl ethers (PMN P–06–451; CAS No. 620610–66–4); and Poly(oxy-1,2-ethanediyl), .alpha.- (2-methyl-2-propen-1-yl) -.omega.-hydroxy-,C_{12-16}-alkyl ethers (PMN P–06–452; CAS No. 675869–05–3)).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 26. Add § 721.10558 to subpart E to read as follows:

§ 721.10558 Poly(oxy-1,2-ethanediyl), .alpha.- (2-methyl-2-propen-1-yl) -.omega.-hydroxy-,C_{12-16}-alkyl ethers.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as poly(oxy-1,2-ethanediyl), .alpha.- (2-methyl-2-propen-1-yl) -.omega.-hydroxy-,C_{12-16}-alkyl ethers (PMN P–06–452; CAS No. 675869–05–3) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(s)(45,000 kilograms cumulative production volume of: Poly(oxy-1,2-ethanediyl), .alpha.- (2-methyl-2-propen-1-yl) -.omega.-hydroxy-,C_{12-15}-alkyl ethers (PMN P–06–450; CAS No. 675869–02–00); Poly(oxy-1,2-ethanediyl), .alpha.- (2-methyl-2-propen-1-yl) -.omega.-hydroxy-,C_{10-16}-alkyl ethers (PMN P–06–451; CAS No. 620610–66–4); and Poly(oxy-1,2-ethanediyl), .alpha.- (2-methyl-2-propen-1-yl) -.omega.-hydroxy-,C_{12-16}-alkyl ethers (PMN P–06–452; CAS No. 675869–05–3)).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 27. Add § 721.10559 to subpart E to read as follows:

§ 721.10559 Morpholine, 4–C_{6-12} acyl derivs.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as morpholine, 4–C_{6-12} acyl derivs. (PMN P–06–793; CAS No. 887947–29–7) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(3), (b)(concentration set at 0.1 percent), and (c).

(ii) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (e)(concentration set at 0.1 percent), (f), (g)(1)(systemic effects), (g)(2)(i), and (g)(2)(v).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a) through (h) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 28. Add § 721.10560 to subpart E to read as follows:

§ 721.10560 Alkanoldioic dialkyl esters (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as alkanoldioic dialkyl esters (PMNs P–07–143 and P–07–144) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to (a)(2)(i) of this section.

■ 29. Add § 721.10561 to subpart E to read as follows:

§ 721.10561 Substituted phenol (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as substituted phenol (PMN P–07–327) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* Requirements as specified as § 721.72 (a), (b), (c), (f), (g)(3)(i), (g)(3)(ii), (g)(4)(iii), and (g)(5).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified as § 721.80(q).

(iii) *Release to water.* Requirements as specified as § 721.90 (a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (f), (g), (h), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to (a)(2)(ii) of this section.

■ 30. Add § 721.10562 to subpart E to read as follows:

§ 721.10562 Aluminum trihydrate and silane homopolymer (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as aluminum trihydrate and silane homopolymer (PMN P–07–375) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(s)(100,000 kilograms).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 31. Add § 721.10563 to subpart E to read as follows:

§ 721.10563 2-Oxiranemethanamine, N-[3-(2-oxiranylmethoxy)phenyl]-N-(2-oxiranylmethyl)-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 2-oxiranemethanamine, N-[3-(2-oxiranylmethoxy)phenyl]-N-(2-oxiranylmethyl)- (PMN P–07–496; CAS No. 71604–74–5) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(3), (b)(concentration set at 0.1 percent), and (c).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j)(preparation of pre-impregnated cloth/fiber tapes for aerospace composite articles).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (e), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 32. Add § 721.10564 to subpart E to read as follows:

§ 721.10564 Mixed amino diaryl sulfone isomers (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as mixed amino diaryl sulfone isomers (PMN P–08–39) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (o), (v)(1), (w)(1), and (x)(1).

(ii) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=8).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 33. Add § 721.10565 to subpart E to read as follows:

§ 721.10565 Ethanol, 2,2′-[[3-[(2-hydroxyethyl)amino]propyl]imino]bis-, N-(hydrogenated tallow alkyl) derivs.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as ethanol, 2,2′-[[3-[(2-hydroxyethyl)amino]propyl]imino]bis-, N-(hydrogenated tallow alkyl) derivs. (PMN P–08–263; CAS No. 90367–25–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 34. Add § 721.10566 to subpart E to read as follows:

§ 721.10566 1-Propanamine, N-(1-methylethyl) -,3-(C_{12-15}-alkyloxy) derivs.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1-propanamine, *N*-(1-methylethyl)-,3-(C_{12-15}-alkyloxy) derivs (PMN P–08–292; CAS No. 944835–56–7) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 35. Add § 721.10567 to subpart E to read as follows:

§ 721.10567 Amidoamine salt (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as amidoamine salt (PMN P–08–300) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 36. Add § 721.10568 to subpart E to read as follows:

§ 721.10568 Diethanolamine salt of polymeric acid (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as diethanolamine salt of polymeric acid (PMN P–08–464) is

subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release ta water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=4).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recardkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitatians ar revocatian of certain natificatian requirements.* The provisions of § 721.185 apply to this section.

■ 37. Add § 721.10569 to subpart E to read as follows:

§ 721.10569 Tricyclic quaternary amine salt (generic).

(a) *Chemical substance and significant new uses subject to reparting.* (1) The chemical substance identified generically as tricyclic quaternary amine salt (PMN P–08–471) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release ta water.* Requirements as specified in § 721.90 (a)(4). (b)(4), and (c)(4) (N=100).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 38. Add § 721.10570 to subpart E to read as follows:

§ 721.10570 Cyclic amine reaction product with acetophenone and formaldehyde acid salt (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as cyclic amine reaction product with acetophenone and formaldehyde acid salt (PMN P–08–537) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release ta water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=8).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recardkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations ar revocation of certain notificatian requirements.* The provisions of § 721.185 apply to this section.

■ 39. Add § 721.10571 to subpart E to read as follows:

§ 721.10571 1,3-Benzenediol, polymer with 1,1'-methylenebis[isocyanatobenzene].

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1,3-benzenediol, polymer with 1,1'-methylenebis[isocyanatobenzene] (PMN P–08–611; CAS No. 1008753–84–1) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and cansumer activities.* Requirements as specified in § 721.80(j)(manufacture with all isocyanate groups reacted within the polymer).

(ii) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to (a)(2)(i) of this section.

■ 40. Add § 721.10572 to subpart E to read as follows:

§ 721.10572 Benzamide, N-[[4-[(cyclopropylamino)carbonyl]phenyl] sulfonyl]-2-methoxy-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as benzamide, N-[[4-[(cyclopropyl amino)carbonyl]phenyl]sulfonyl]-2-methoxy- (PMN P–08–680; CAS No. 221667–31–8) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Pratection in the warkplace.* Requirements as specified in § 721.63 (a)(1), (a)(2)(i), (a)(3). (a)(4), (a)(6)(i), (b)(concentration set at 0.1 percent), and (c). The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an assigned protection factor (APF) of at least 10 meet the requirements of § 721.63(a)(4):

(A) NIOSH-certified air-purifying, tight-fitting half-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters.

(B) NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters.

(C) NIOSH-certified powered air-purifying respirator equipped with a loose-fitting hood or helmet and high efficiency particulate air (HEPA) filters.

(D) NIOSH-certified powered air-purifying respirator equipped with a tight-fitting facepiece (either half-face or full-face) and HEPA filters.

(E) NIOSH-certified supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting facepiece (either half-face or full-face).

(ii) *Hazard cammunication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (e)(concentration set at 0.1 percent), (f), (g)(1)(iv), (g)(2)(iv), and (g)(2)(v).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a) through (h) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 41. Add § 721.10573 to subpart E to read as follows:

§ 721.10573 Magnesium hydroxide surface treated with substituted alkoxysilanes (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as magnesium hydroxide surface treated with substituted alkoxysilanes (PMN P–08–737) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(4), (a)(6)(i), (b)(concentration set at 0.1 percent), and (c). The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an assigned protection factor (APF) of at least 10 meet the requirements of § 721.63(a)(4):

(A) NIOSH-certified air-purifying, tight-fitting half-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters.

(B) NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters.

(C) NIOSH-certified powered air-purifying respirator equipped with a loose-fitting hood or helmet and high efficiency particulate air (HEPA) filters.

(D) NIOSH-certified powered air-purifying respirator equipped with a tight-fitting facepiece (either half-face or full-face) and HEPA filters.

(E) NIOSH-certified supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting facepiece (either half-face or full-face).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e)(concentration set at 0.1 percent), (f), (g)(l)(ii), (g)(l)(viii), and (g)(2)(iv).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(s) (100,000 kilograms).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (f), (g), (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 42. Add § 721.10574 to subpart E to read as follows:

§ 721.10574 Alkylcarboxy polyester acrylate reaction products with mixed metal oxides (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkylcarboxy polyester acrylate reaction products with mixed metal oxides (PMN P–09–48) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this rule do not apply to quantities of the PMN substance after it has been completely reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(1), (a)(2)(i), and (a)(3).

(ii) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (f), (g)(1)(ii), (g)(1)(iv), (g)(1)(vii), (g)(2)(i), (g)(2)(ii), (g)(2)(v), (g)(4)(i), (g)(4)(iii), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified § 721.80 (a) (if used in the form of a powder), (b) (if manufactured in the form of a powder), (c) (if processed in the form of a powder), (k) (transport to processors using only reusable tote tanks cleaned not more than once per year), (y)(1), and (y)(2).

(iv) *Disposal.* Requirements as specified in § 721.85 (a)(1), (b)(1), (c)(1), and (d)(recycling of use waste stream via polymer reclamation as an alternative to incineration). (All incineration shall be via Resource Conservation and Recovery Act (RCRA) approved hazardous waste incineration).

(v) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a) through (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to (a)(2)(iii) of this section.

■ 43. Add § 721.10575 to subpart E to read as follows:

§ 721.10575 1-Propanone, 1,1'-(oxydi-4,1-phenylene)bis[2-hydroxy-2-methyl-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1-propanone, 1,1'-(oxydi-4,1-phenylene)bis[2-hydroxy-2-methyl- (PMN P–09–480; CAS No. 71868–15–0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(4), (a)(6)(i), (b) (concentration set at 0.1 percent), and (c). The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an assigned protection factor (APF) of at least 50 satisfy the requirements of § 721.63(a)(4):

(A) NIOSH-certified air-purifying, tight-fitting half-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters.

(B) NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters.

(C) NIOSH-certified powered air-purifying respirator equipped with a loose-fitting hood or helmet and high efficiency particulate air (HEPA) filters.

(D) NIOSH-certified powered air-purifying respirator equipped with a tight-fitting facepiece (either half-face or full-face) and HEPA filters.

(E) NIOSH-certified supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting facepiece (either half-face or full-face).

(ii) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), (g)(1)(vi), (g)(2)(ii), (g)(2)(iv), and (g)(5).

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f).

(iv) *Release to water.* Requirements as specified in § 721.90 (b)(4) and (c)(4) (N=14).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (f), (g), (h), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 44. Add § 721.10576 to subpart E to read as follows:

§ 721.10576 Polyalkenyl, N,N'-bistriazole (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as polyalkenyl, N,N'-bistriazole (PMN P–09–486) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part

apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to (a)(2)(i) of this section.

■ 45. Add § 721.10577 to subpart E to read as follows:

§ 721.10577 Benzenamine, 5-(1,1-dimethylethyl)-2-[(2-ethylhexyl)thio]-,4-methylbenzenesulfonate (1:1).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as benzenamine, 5-(1,1-dimethylethyl)-2-[(2-ethylhexyl)thio]-,4-methylbenzenesulfonate (1:1) (PMN P–09–636; CAS No. 852360–51–1) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this rule do not apply to quantities of the PMN substance after it has been completely reacted (cured).

(2) The significant new uses are:

(i) *Hazard communication program.* Requirements as specified in § 721.72 (a), (b), (c), (d), (f), (g)(1)(ix), (g)(2)(ii), (g)(2)(iii), (g)(3)(i), (g)(3)(ii), (g)(4)(iii), and (g)(5).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (h) and (p)(15,000 kilograms, 170,000 kilograms, and 496,000 kilograms).

(iii) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1) and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (f), (g), (h), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 46. Add § 721.10578 to subpart E to read as follows:

§ 721.10578 Unsaturated polyester imide (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as unsaturated polyester imide (PMN P–10–231) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N = 52).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 47. Add § 721.10579 to subpart E to read as follows:

§ 721.10579 Carbon black derived from the pyrolysis of rubber tire shreds (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as carbon black derived from the pyrolysis of rubber tire shreds (PMN P–10–367) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (k)(Manufacture of the PMN substance using only the process described in PMN; manufacturing, processing, or use of the PMN substance in compliance with the Occupational Safety and Health Administration (OSHA) Permissible Exposure Limit (PEL) for carbon black of 3.5 mg/m^3; and manufacture of the PMN substance to meet the NIOSH recommended time weighted average (TWA) for polyaromatic hydrocarbons (PAH) in carbon black of 0.1 mg/m^3); and (q).

(ii) *Release to water.* Requirements as specified in § 721.90 (a)(1), (b)(1), and (c)(1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to (a)(2)(i) of this section.

■ 48. Add § 721.10580 to subpart E to read as follows:

§ 721.10580 Poly[oxy(methyl-1,2-ethanediyl)], alpha, alpha′-[1,4-cyclohexanediylbis(methylene)]bis[omega-(2-aminomethylethoxy)-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as poly[oxy(methyl-1,2-ethanediyl)], alpha, alpha′-[1,4-cyclohexanediylbis (methylene)]bis[omega-(2-amino methylethoxy)- (PMN P–10–452; CAS No. 1220986–58–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N = 98).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 49. Add § 721.10581 to subpart E to read as follows:

§ 721.10581 Brominated polyurethane prepolymers of methylene diphenyl diisocyanate (MDI) (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as brominated polyurethane prepolymers of methylene diphenyl diisocyanate (MDI) (PMNs P–10–524 and P–10–525) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(4), (a)(6)(i), (a)(6)(ii), (b)(concentration set at 0.1 percent), and (c). The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an assigned protection factor (APF) of at least 10 meet the requirements of § 721.63(a)(4):

(A) NIOSH-certified air-purifying, tight-fitting half-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters.

(B) NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters.

(C) NIOSH-certified powered air-purifying respirator equipped with a loose- fitting hood or helmet and high efficiency particulate air (HEPA) filters.

(D) NIOSH-certified powered air-purifying respirator equipped with a tight-fitting facepiece (either half-face or full-face) and HEPA filters.

(E) NIOSH-certified supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting facepiece (either half-face or full-face).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), and (i) are applicable to manufacturers, importers, and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 50. Add § 721.10582 to subpart E to read as follows:

§ 721.10582 Quaternary ammonium compound (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as quaternary ammonium compound (PMN P–10–571) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N = 47).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 51. Add § 721.10583 to subpart E to read as follows:

§ 721.10583 Benzenamine, 4,4′-[1,3-phenylenebis(1-methylethylidene)]bis-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as benzenamine, 4,4′-[1,3-phenylenebis(1-methylethylidene)]bis- (PMN P–10–588; CAS No. 2687–27–6) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(4), (a)(6)(i), (a)(6)(ii), (b)(concentration set at 0.1 percent), and (c). The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an assigned protection factor (APF) of at least 1,000 meet the requirements of § 721.63(a)(4):

(A) NIOSH-certified air-purifying, tight-fitting half-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters.

(B) NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters.

(C) NIOSH-certified powered air-purifying respirator equipped with a loose-fitting hood or helmet and high efficiency particulate air (HEPA) filters.

(D) NIOSH-certified powered air-purifying respirator equipped with a tight-fitting facepiece (either half-face or full-face) and HEPA filters.

(E) NIOSH-certified supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting facepiece (either half-face or full-face).

(ii) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N = 1).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 52. Add § 721.10584 to subpart E to read as follows:

§ 721.10584 Cyclopentene, 1,3,3,4,4,5,5-heptafluoro-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as cyclopentene, 1,3,3,4,4,5,5-heptafluoro- (PMN P–11–29; CAS No. 1892–03–1) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (f), (j)(dry etching agent for production of semiconductors), (o), and (s) (10,000 kilograms).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 53. Add § 721.10585 to subpart E to read as follows:

§ 721.10585 Disiloxane, 1-butyl-1,1,3,3-tetramethyl-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as disiloxane, 1-butyl-1,1,3,3-tetramethyl- (PMN P–11–43; CAS No. 121263–51–2) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N = 1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 54. Add § 721.10586 to subpart E to read as follows:

§ 721.10586 Disiloxane, 1,3-dibutyl-1,1,3,3-tetramethyl-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as disiloxane, 1,3-dibutyl-1,1,3,3-tetramethyl- (PMN P–11–44; CAS No. 4619–08–3) is subject to reporting under

this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N = 1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 55. Add § 721.10587 to subpart E to read as follows:

§ 721.10587 1H-Pyrazole, 3,4-dimethyl-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1H-pyrazole, 3,4-dimethyl- (PMN P–11–81; CAS No. 2820–37–3) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N = 19).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 56. Add § 721.10588 to subpart E to read as follows:

§ 721.10588 Phenol, 2-[1-[[3-(1H-imidazol-1-yl)propyl]imino]ethyl]-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as phenol, 2-[1-[[3-(1H-imidazol-1-yl)propyl]imino]ethyl]- (PMN P–11–98; CAS No. 1253404–90–8) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 57. Add § 721.10589 to subpart E to read as follows:

§ 721.10589 Unsaturated fatty acids, amides with polyethylenepolyamine (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as unsaturated fatty acids, amides with polyethylenepolyamine (PMN P–11–106) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 58. Add § 721.10590 to subpart E to read as follows:

§ 721.10590 Fatty acids, amides with triethylentetramine (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as fatty acids, amides with triethylentetramine (PMN P–11–107) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 59. Add § 721.10591 to subpart E to read as follows:

§ 721.10591 Tertiary ammonium compound (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as tertiary ammonium compound (PMN P–11–110) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 60. Add § 721.10592 to subpart E to read as follows:

§ 721.10592 1-Butanol, 4-amino-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 1-butanol, 4-amino- (PMN P–11–130; CAS No. 13325–10–5) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(g).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 61. Add § 721.10593 to subpart E to read as follows:

§ 721.10593 5-Isobenzofurancarboxylic acid, 1,3-dihydro-1,3-dioxo-, 2-[(2-methyl-1-oxo-2-propen-1-yl)oxy]ethyl ester.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 5-isobenzofurancarboxylic acid, 1,3-dihydro-1,3-dioxo-, 2-[(2-methyl-1-oxo-2-propen-1-yl)oxy]ethyl ester (PMN P–11–162; CAS No. 70293–55–9) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=20).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 62. Add § 721.10594 to subpart E to read as follows:

§ 721.10594 Hexanedioic acid, polymer with 2,2-dimethyl-1,3-propanediol, 1,6-hexanediol, hydrazine, 3-hydroxy-2-(hydroxymethyl)-2-methylpropanoic acid, 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane and 1,1′-[(1-methylethylidene)bis(4,1-phenyleneoxy)]bis[2-propanol], iso-Bu alc.-blocked, compds. with triethylamine.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as hexanedioic acid, polymer with 2,2-dimethyl-1,3-propanediol, 1,6-hexanediol, hydrazine, 3-hydroxy-2-(hydroxymethyl)-2-methylpropanoic acid, 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane and 1,1′-[(1-methylethylidene)bis(4,1-phenyleneoxy)]bis[2-propanol], iso-Bu alc.-blocked, compds. with triethylamine (PMN P–11–173; CAS No. 1138156–39–4) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=150) (Where primary, secondary, and tertiary waste treatment will occur, or treatment in a lined, self-contained solar evaporation pond where ultraviolet light will degrade the substance, the number of kilograms per day per site is calculated after wastewater treatment).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 63. Add § 721.10595 to subpart E to read as follows:

§ 721.10595 Octadecen-1-aminium, N-ethyl-N,N-dimethy-, ethyl sulfate (1:1).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as octadecen-1-aminium, N-ethyl-N,N-dimethy-, ethyl sulfate (1:1) (PMN P–11–230; CAS No. 1256282–88–8) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=4).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 64. Add § 721.10596 to subpart E to read as follows:

§ 721.10596 Oligomeric phenolic ether (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as oligomeric phenolic ether (PMN P–11–234) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 65. Add § 721.10597 to subpart E to read as follows:

§ 721.10597 Benzeneacetonitrile, alkoxy-[[(alkylsulfonyl)oxy]imino]- (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as benzeneacetonitrile, alkoxy-[[(alkylsulfonyl)oxy]imino]- (PMN P–11–252) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 66. Add § 721.10598 to subpart E to read as follows:

§ 721.10598 Lead strontium titanium zirconium oxide.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as lead strontium titanium zirconium oxide (PMN P–11–270; CAS No. 61461–40–3) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(4), (a)(6)(i), and (c). The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an assigned protection factor (APF) of at least 50 meet the requirements of § 721.63(a)(4):

(A) NIOSH-certified air-purifying, tight-fitting half-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters.

(B) NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters.

(C) NIOSH-certified powered air-purifying respirator equipped with a loose-fitting hood or helmet and high efficiency particulate air (HEPA) filters.

(D) NIOSH-certified powered air-purifying respirator equipped with a tight-fitting facepiece (either half-face or full-face) and HEPA filters.

(E) NIOSH-certified supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting facepiece (either half-face or full-face).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j) (piezoelectric ceramics for active and passive underwater acoustic systems).

(iii) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (Where N=8, and 8 is an aggregate of releases for the following substances: Lead strontium titanium zirconium oxide (PMN P–11–270; CAS No. 61461–40–3); Calcium cobalt lead titanium tungsten oxide (PMN P–11–271; CAS No. 1262279–31–1); Calcium cobalt lead strontium titanium tungsten oxide (PMN P–11–272; CAS No. 1262279–30–0); Lanthanum lead titanium zirconium oxide (PMN P–11–273; CAS No. 1227908–26–0); and Lead niobium titanium zirconium oxide (PMN P–11–274; CAS No. 56572–83–9)).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 67. Add § 721.10599 to subpart E to read as follows:

§ 721.10599 Calcium cobalt lead titanium tungsten oxide.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as calcium cobalt lead titanium tungsten oxide (PMN P–11–271; CAS No. 1262279–31–1) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(4), (a)(6)(i), and (c). The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an assigned protection factor (APF) of at least 50 meet the requirements of § 721.63(a)(4):

(A) NIOSH-certified air-purifying, tight-fitting half-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters.

(B) NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters.

(C) NIOSH-certified powered air-purifying respirator equipped with a loose-fitting hood or helmet and high efficiency particulate air (HEPA) filters.

(D) NIOSH-certified powered air-purifying respirator equipped with a tight-fitting facepiece (either half-face or full-face) and HEPA filters.

(E) NIOSH-certified supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting facepiece (either half-face or full-face).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j) (piezoelectric ceramics for active and passive underwater acoustic systems).

(iii) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (Where N=8, and 8 is an aggregate of releases for the following substances: Lead strontium titanium zirconium oxide (PMN P–11–270; CAS No. 61461–40–3); Calcium cobalt lead titanium tungsten oxide (PMN P–11–271; CAS No. 1262279–31–1); Calcium cobalt lead strontium titanium tungsten oxide (PMN P–11–272; CAS No. 1262279–30–0); Lanthanum lead titanium zirconium oxide (PMN P–11–273; CAS No. 1227908–26–0); and Lead niobium titanium zirconium oxide (PMN P–11–274; CAS No. 56572–83–9)).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 68. Add § 721.10600 to subpart E to read as follows:

§ 721.10600 Calcium cobalt lead strontium titanium tungsten oxide.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as calcium cobalt lead strontium titanium tungsten oxide (PMN P–11–272; CAS No. 1262279–30–0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(4), (a)(6)(i), and (c). The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an assigned protection factor (APF) of at least 50 meet the requirements of § 721.63(a)(4):

(A) NIOSH-certified air-purifying, tight-fitting half-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters.

(B) NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters.

(C) NIOSH-certified powered air-purifying respirator equipped with a loose-fitting hood or helmet and high efficiency particulate air (HEPA) filters.

(D) NIOSH-certified powered air-purifying respirator equipped with a tight-fitting facepiece (either half-face or full-face) and HEPA filters.

(E) NIOSH-certified supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting facepiece (either half-face or full-face).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j) (piezoelectric ceramics for active and passive underwater acoustic systems).

(iii) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (Where N=8, and 8 is an aggregate of releases for the following substances: Lead strontium titanium zirconium oxide (PMN P–11–270; CAS No. 61461–40–3); Calcium cobalt lead titanium tungsten oxide (PMN P–11–271; CAS No. 1262279–31–1); Calcium cobalt lead strontium titanium tungsten oxide (PMN P–11–272; CAS No. 1262279–30–0); Lanthanum lead titanium zirconium oxide (PMN P–11–273; CAS No. 1227908–26–0); and Lead niobium titanium zirconium oxide (PMN P–11–274; CAS No. 56572–83–9)).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 69. Add § 721.10601 to subpart E to read as follows:

§ 721.10601 Lanthanum lead titanium zirconium oxide.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as lanthanum lead titanium zirconium oxide (PMN P–11–273; CAS No. 1227908–26–0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(4), (a)(6)(i), and (c). The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an assigned protection factor (APF) of at least 50 meet the requirements of § 721.63(a)(4):

(A) NIOSH-certified air-purifying, tight-fitting half-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters.

(B) NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters.

(C) NIOSH-certified powered air-purifying respirator equipped with a loose-fitting hood or helmet and high efficiency particulate air (HEPA) filters.

(D) NIOSH-certified powered air-purifying respirator equipped with a tight-fitting facepiece (either half-face or full-face) and HEPA filters.

(E) NIOSH-certified supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting facepiece (either half-face or full-face).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j) (piezoelectric ceramics for active and passive underwater acoustic systems).

(iii) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (Where N=8, and 8 is an aggregate of releases for the following substances: Lead strontium titanium zirconium oxide (PMN P–11–270; CAS No. 61461–40–3); Calcium cobalt lead titanium tungsten oxide (PMN P–11–271; CAS No. 1262279–31–1); Calcium cobalt lead strontium titanium tungsten oxide (PMN P–11–272; CAS No. 1262279–30–0); Lanthanum lead titanium zirconium oxide (PMN P–11–273; CAS No. 1227908–26–0); and Lead niobium titanium zirconium oxide (PMN P–11–274; CAS No. 56572–83–9)).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 70. Add § 721.10602 to subpart E to read as follows:

§ 721.10602 Lead niobium titanium zirconium oxide.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as lead niobium titanium zirconium oxide (PMN P–11–274; CAS No. 56572–83–9) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(4), (a)(6)(i), and (c). The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an assigned protection factor (APF) of at least 50 meet the requirements of § 721.63(a)(4):

(A) NIOSH-certified air-purifying, tight-fitting half-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters.

(B) NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters.

(C) NIOSH-certified powered air-purifying respirator equipped with a loose-fitting hood or helmet and high efficiency particulate air (HEPA) filters.

(D) NIOSH-certified powered air-purifying respirator equipped with a tight-fitting facepiece (either half-face or full-face) and HEPA filters.

(E) NIOSH-certified supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting facepiece (either half-face or full-face).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(j) (piezoelectric ceramics for active and passive underwater acoustic systems).

(iii) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (Where N=8, and 8 is an aggregate of releases for the following substances: Lead strontium titanium zirconium oxide (PMN P–11–270; CAS No. 61461–40–3); Calcium cobalt lead titanium tungsten oxide (PMN P–11–271; CAS No. 1262279–31–1); Calcium cobalt lead strontium titanium tungsten oxide (PMN P–11–272; CAS No. 1262279–30–0); Lanthanum lead titanium zirconium oxide (PMN P–11–273; CAS No. 1227908–26–0); and Lead niobium titanium zirconium oxide (PMN P–11–274; CAS No. 56572–83–9)).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), (i), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 71. Add § 721.10603 to subpart E to read as follows:

§ 721.10603 Epoxy modified alkyd resin, partially neutralized (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as epoxy modified alkyd resin, partially neutralized (PMN P–11–280) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 72. Add § 721.10604 to subpart E to read as follows:

§ 721.10604 Polyetherdiamine (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as polyetherdiamine (PMN P–11–447) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=4).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 73. Add § 721.10605 to subpart E to read as follows:

§ 721.10605 Polyoxyalkylene ether, polymer with aliphatic diisocyanate, homopolymer, alkanol-blocked (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as polyoxyalkylene ether, polymer with aliphatic diisocyanate, homopolymer, alkanol-blocked (PMN P–11–485) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(4), (a)(6)(i), (a)(6)(ii), (b) (concentration set at 0.1 percent), and (c). The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an assigned protection factor (APF) of at least 10 meet the requirements of § 721.63(a)(4):

(A) NIOSH-certified air-purifying, tight-fitting half-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters.

(B) NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters.

(C) NIOSH-certified powered air-purifying respirator equipped with a loose-fitting hood or helmet and high efficiency particulate air (HEPA) filters.

(D) NIOSH-certified powered air-purifying respirator equipped with a tight-fitting facepiece (either half-face or full-face) and HEPA filters.

(E) NIOSH-certified supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting facepiece (either half-face or full-face).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (o) and (s) (10,000 kilograms).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 74. Add § 721.10606 to subpart E to read as follows:

§ 721.10606 Alkyl substituted alkanediol polymer with aliphatic and alicyclic diisocyanates (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as alkyl substituted alkanediol polymer with aliphatic and alicyclic diisocyanates (PMN P–11–486) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(4), (a)(6)(i), (a)(6)(ii), (b) (concentration set at 0.1 percent), and (c). The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an assigned protection factor (APF) of at least 10 meet the requirements of § 721.63(a)(4):

(A) NIOSH-certified air-purifying, tight-fitting half-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters.

(B) NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters.

(C) NIOSH-certified powered air-purifying respirator equipped with a loose-fitting hood or helmet and high efficiency particulate air (HEPA) filters.

(D) NIOSH-certified powered air-purifying respirator equipped with a tight-fitting facepiece (either half-face or full-face) and HEPA filters.

(E) NIOSH-certified supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting facepiece (either half-face or full-face).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (o) and (s) (10,000 kilograms).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), (d), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 75. Add § 721.10607 to subpart E to read as follows:

§ 721.10607 Aliphatic diisocyanate, homopolymer, alkanol-blocked (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as aliphatic diisocyanate, homopolymer, alkanol-blocked (PMN P–11–488) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(4), (a)(6)(i), (a)(6)(ii), (b) (concentration set at 0.1 percent), and (c). The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an assigned protection factor (APF) of at least 10 meet the requirements of § 721.63(a)(4):

(A) NIOSH-certified air-purifying, tight-fitting half-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters.

(B) NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters.

(C) NIOSH-certified powered air-purifying respirator equipped with a loose-fitting hood or helmet and high efficiency particulate air (HEPA) filters.

(D) NIOSH-certified powered air-purifying respirator equipped with a tight-fitting facepiece (either half-face or full-face) and HEPA filters.

(E) NIOSH-certified supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting facepiece (either half-face or full-face).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(o) and (s) (10,000 kilograms).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 76. Add § 721.10608 to subpart E to read as follows:

§ 721.10608 Aliphatic diisocyanate polymer with alkanediol and alkylglycol (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as aliphatic diisocyanate polymer with alkanediol and alkylglycol (PMN P–11–489) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63 (a)(4), (a)(6)(i), (a)(6)(ii), (b) (concentration set at 0.1 percent), and (c). The following National Institute for Occupational Safety and Health (NIOSH)-certified respirators with an assigned protection factor (APF) of at least 10 meet the requirements of § 721.63(a)(4):

(A) NIOSH-certified air-purifying, tight-fitting half-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters.

(B) NIOSH-certified air-purifying, tight-fitting full-face respirator equipped with N100 (if oil aerosols absent), R100, or P100 filters.

(C) NIOSH-certified powered air-purifying respirator equipped with a loose-fitting hood or helmet and high efficiency particulate air (HEPA) filters.

(D) NIOSH-certified powered air-purifying respirator equipped with a tight-fitting facepiece (either half-face or full-face) and HEPA filters.

(E) NIOSH-certified supplied-air respirator operated in pressure demand or continuous flow mode and equipped with a hood or helmet, or tight-fitting facepiece (either half-face or full-face).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (o) and (s) (10,000 kilograms).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (d), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 77. Add § 721.10609 to subpart E to read as follows:

§ 721.10609 Imidodicarbonic diamide, N,N′-dibutyl-N′,2-bis[4-[(4-isocyanatophenyl)methyl]phenyl]-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as imidodicarbonic diamide, N,N′-dibutyl-N′,2-bis[4-[(4-isocyanatophenyl)methyl]phenyl]-(PMN P–11–548; CAS No. 1254743–03–7) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (o) and (y)(1).

(ii) [Reserved].

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 78. Add § 721.10610 to subpart E to read as follows:

§ 721.10610 Toluene diisocyanate, polymers with polyalkylene glycol (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as toluene diisocyanate, polymers with polyalkylene glycol (PMNs P–11–635 and P–11–636) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (o) and (y)(1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (i) are applicable to manufacturers, importers, and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

[FR Doc. 2012–23993 Filed 10–4–12; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

Vol. 77 Friday,
No. 194 October 5, 2012

Part V

Department of Housing and Urban Development

Final Fair Market Rents for the Housing Choice Voucher Program and Moderate Rehabilitation Single Room Occupancy Program Fiscal Year 2013; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5648–N–02]

Final Fair Market Rents for the Housing Choice Voucher Program and Moderate Rehabilitation Single Room Occupancy Program Fiscal Year 2013

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice of Final Fiscal Year (FY) 2013 Fair Market Rents (FMRs).

SUMMARY: Section 8(c)(1) of the United States Housing Act of 1937 (USHA) requires the Secretary to publish FMRs periodically, but not less than annually, adjusted to be effective on October 1 of each year. This notice publishes the FMRs for the Housing Choice Voucher, the Moderate Rehabilitation, the project-based voucher, and any other programs requiring their use. Today's notice provides final FY 2013 FMRs for all areas that reflect the estimated 40th and 50th percentile rent levels trended to April 1, 2013. The FY 2013 FMRs are based on using 5-year, 2006–2010 data collected by the American Community Survey (ACS). These data are updated by one-year recent-mover 2010 ACS data using areas where statistically valid one-year ACS data are available. The Consumer Price Index (CPI) rent and utility indexes are used to further update the data from 2010 to the end of 2011. HUD continues to use ACS data in different ways depending on the availability of two-bedroom standard-quality and recent-mover sample data for its FMR area or a larger geographic area such as the Core-Based Statistical Area (CBSA) or state nonmetropolitan area.

The final FY 2013 FMR areas are based on current Office of Management and Budget (OMB) metropolitan area definitions and include HUD modifications that were first used in the determination of FY 2006 FMR areas. Changes to the OMB metropolitan area definitions through December 2009 are incorporated; there have been no further changes to metropolitan area definitions. OMB has announced that new metropolitan area definitions will be released in 2013. HUD will incorporate these changes during the process to calculate proposed FMRs following the release of the new definitions.

The final FY 2013 FMRs in this notice reflect two changes in the methodology used to calculate FMRs. First, HUD has updated the bedroom ratios used to calculate 0, 1, 3 and 4 bedroom FMRs based on the two-bedroom FMR. Bedroom ratios were last updated using the decennial 2000 Census. Because the 2010 Census did not collect rents, the new bedroom ratios are constructed using 2006–2010 5 year ACS data. The methodology for calculating the bedroom ratios is very similar to the method used when the bedroom ratios were based on 2000 decennial Census long-form data. Second, a new trend factor calculation methodology has been used for the FY 2013 FMRs, which HUD stated would be implemented in its proposed FY 2012 FMR publication on August 19, 2011 (76 FR 52058). This trend factor is based on national gross rent data and will change annually.

DATES: *Effective Date:* The FMRs published in this notice are effective on October 1, 2012.

FOR FURTHER INFORMATION CONTACT: For technical information on the methodology used to develop FMRs or a listing of all FMRs, please call the HUD USER information line at 800–245–2691 or access the information on the HUD USER Web site *http://www.huduser.org/portal/datasets/fmr.html.* FMRs are listed at the 40th or 50th percentile in Schedule B. For informational purposes, 40th percentile recent-mover rents for the areas with 50th percentile FMRs will be provided in the HUD FY 2013 FMR documentation system at *http://www.huduser.org/portal/datasets/fmr/fmrs/docsys.html&data=fmr13* and 50th percentile rents for all FMR areas will be published at *http://www.huduser.org/portal/datasets/50per.html* after publication of final FY 2013 FMRs.

Questions related to use of FMRs or voucher payment standards should be directed to the respective local HUD program staff. Questions on how to conduct FMR surveys or concerning further methodological explanations may be addressed to Marie L. Lihn or Peter B. Kahn, Economic and Market Analysis Division, Office of Economic Affairs, Office of Policy Development and Research, telephone 202–708–0590. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339. (Other than the HUD USER information line and TDD numbers, telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

I. Background

Section 8 of the USHA (42 U.S.C. 1437f) authorizes housing assistance to aid lower-income families in renting safe and decent housing. Housing assistance payments are limited by FMRs established by HUD for different geographic areas. In the HCV program, the FMR is the basis for determining the "payment standard amount" used to calculate the maximum monthly subsidy for an assisted family (see 24 CFR 982.503). In general, the FMR for an area is the amount that would be needed to pay the gross rent (shelter rent plus utilities) of privately owned, decent, and safe rental housing of a modest (non-luxury) nature with suitable amenities. In addition, all rents subsidized under the HCV program must meet reasonable rent standards. HUD's regulations at 24 CFR 888.113 permit it to establish 50th percentile FMRs for certain areas.

Electronic Data Availability: This **Federal Register** notice is available electronically from the HUD User page at *http://www.huduser.org/datasets/fmr.html.* **Federal Register** notices also are available electronically from *http://www.gpoaccess.gov/fr/index.html,* the U.S. Government Printing Office Web site. Complete documentation of the methodology and data used to compute each area's final FY 2013 FMRs is available at *http://www.huduser.org/portal/datasets/fmr/fmrs/docsys.html&data=fmr13.* Final FY 2013 FMRs are available in a variety of electronic formats at *http://www.huduser.org/portal/datasets/fmr.html.* FMRs may be accessed in PDF format as well as in Microsoft Excel. Small Area FMRs based on final FY 2013 Metropolitan Area Rents are available in Microsoft Excel format at the same web address. Please note that these Small Area FMRs are for reference only, except where they are used by PHAs participating in the Small Area FMR demonstration.

II. Procedures for the Development of FMRs

Section 8(c) of the USHA requires the Secretary of HUD to publish FMRs periodically, but not less frequently than annually. Section 8(c) states, in part, as follows:

> Proposed fair market rentals for an area shall be published in the **Federal Register** with reasonable time for public comment and shall become effective upon the date of publication in final form in the **Federal Register.** Each fair market rental in effect under this subsection shall be adjusted to be effective on October 1 of each year to reflect changes, based on the most recent available data trended so the rentals will be current for the year to which they apply, of rents for existing or newly constructed rental dwelling units, as the case may be, of various sizes and types in this section.

HUD's regulations at 24 CFR part 888 provide that HUD will develop proposed FMRs, publish them for public comment, provide a public comment

period of at least 30 days, analyze the comments, and publish final FMRs. (See 24 CFR 888.115.) For FY 2013 FMRs, HUD has considered all comments submitted in response to its August 3, 2012 (77 FR 46447) proposed FY 2013 FMRs and provides its responses later in this preamble.

In addition, HUD's regulations at 24 CFR 888.113 set out procedures for HUD to assess whether areas are eligible for FMRs at the 50th percentile. Minimally qualified areas [1] are reviewed each year unless not qualified to be reviewed. Areas that currently have 50th percentile FMRs are evaluated for progress in voucher tenant concentration after three years in the program. Continued eligibility is determined using HUD administrative data that show levels of voucher tenant concentration. The levels of voucher tenant concentration must be above 25 percent and show a decrease in concentration since the last evaluation. At least 85 percent of the voucher units in the area must be used to make this determination. Areas are not qualified to be reviewed if they have been made a 50th-percentile area within the last three years or have lost 50th-percentile status for failure to de-concentrate within the last three years.

In FY 2012 there were 21 areas using 50th-percentile FMRs. Of these 21 areas, 19 were allowed to continue as 50th percentile FMR areas. The two areas that are no longer in the 50th percentile program are Grand Rapids, MI and Washington, DC. The evaluation of Grand Rapids, MI showed that the concentration of HCV tenants fell below what is eligiblfor a 50th percentile FMR. This area may be re-evaluated next year. The Washington, DC area failed to deconcentrate which means that it is not eligible for a 50th percentile FMR program for a three-year period. PHAs in the Washington, DC area may seek payment standard protection under 24 CFR 982.503(f) from the HUD Field Office is the PHA scored the maximum number of points on the deconcentration bonus indicator in the prio year, or in two or the last three years.

Those eligible to continue are listed below:

FY 2013 CONTINUING 50TH-PERCENTILE FMR AREAS

Austin-Round Rock-San Marcos, TX MSA	Baltimore-Towson, MD MSA.
Bergen-Passaic, NJ HMFA [2]	Fort Lauderdale, FL HMFA.
Fort Worth-Arlington, TX HMFA	Hartford-West Hartford-East Hartford, CT HMFA.
Honolulu, HI MSA	Houston-Baytown-Sugar Land, TX HMFA.
Las Vegas-Paradise, NV MSA	New Haven-Meriden, CT HMFA.
North Port-Bradenton-Sarasota, FL MSA	Orange County, CA HMFA.
Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA	Phoenix-Mesa-Glendale, AZ MSA.
Riverside-San Bernardino-Ontario, CA HMFA	Sacramento—Arden-Arcade—Roseville, CA HMFA.
Tucson, AZ MSA	Virginia Beach-Norfolk-Newport News, VA-NC MSA.
West Palm Beach-Boca Raton, FL HMFA.	

In addition, Richmond, VA, an area that graduated from the 50th percentile program in FY 2012, re-enters the program in FY 2013. In summary, there will be 20 50th-percentile FMR areas in FY 2013. These areas are indicated by an asterisk in Schedule B, where all FMRs are listed by state.

III. Proposed FY 2013 FMRs

On August 3, 2012 (77 FR 46447), HUD published proposed FY 2013 FMRs with a comment period that ended September 4, 2012. HUD has considered all public comments received and HUD provides responses to these comments later in this preamble. HUD does not specifically identify each commenter, but all comments are available for review on the Federal Government's Web site for capturing comments on proposed regulations and related documents (Regulations.gov—*http://www.regulations.gov/#!docketDetail;dct=N%252BO%252BSR%252BPS;rpp=25;po=0;D=HUD-2012-0090*).

IV. FMR Methodology

This section provides a brief overview of how the FY 2013 FMRs are computed. For complete information on how FMR areas are determined, and on how each area's FMRs are derived, see the online documentation at *http://www.huduser.org/portal/datasets/fmr/fmrs/docsys.html&data=fmr13*.

The FY 2013 FMRs are based on current OMB metropolitan area definitions and standards that were first used in the FY 2006 FMRs. OMB changes to the metropolitan area definitions through December 2009 are incorporated. There have been no area definition changes published by OMB since the publication of the FY 2012 FMRs; therefore, the FY 2013 area definitions are the same as those used in FY 2012. HUD anticipates that OMB will publish new area definitions in 2013. Depending on the timing of this release, HUD will incorporate the new area definitions into either the FY 2014 or FY 2015 proposed FMRs.

A. Base Year Rents

The U.S. Census Bureau provided special tabulations of 5-year ACS data collected between 2006 through 2010 to HUD in early to mid-2012. For FY 2013 FMRs, HUD used the 2006–2010 5-year ACS data to update the base rents set in FY 2012 using the 2005–2009 5-year ACS data.[3]

FMRs are historically based on gross rents for recent movers (those who have moved into their current residence in the last 24 months). However, due to the way the 5-year ACS data are constructed, HUD developed a new methodology for calculating recent-mover FMRs in FY 2012. As in FY 2012, all areas are assigned as a base rent the estimated two-bedroom standard quality 5-year gross rent from the ACS.[4]

[1] As defined in 24 CFR 888.113(c), a minimally qualified area is an area with at least 100 Census tracts where 70 percent or fewer of the Census tracts with at least 10 two-bedroom rental units are Census tracts in which at least 30 percent of the two bedroom rental units have gross rents at or below the two bedroom FMR set at the 40th percentile rent. This continues to be evaluated with 2000 Decennial Census information. Although the 2006–2010 5-year ACS tract level data is available, HUD's administrative data on tenant locations (used in the calculation of concentration) has not yet been updated to use the 2010 Census Tract area definitions. Once this administrative data is updated, HUD will implement the 5-year ACS data as the basis for determining if areas are minimally qualified for 50th percentile status.

[2] HMFA stands for HUD Metropolitan FMR Area.

[3] The only difference in survey data between the 2005–2009 5-year ACS data and the 2006–2010 5-year ACS data is the replacement of 2005 survey responses with survey responses collected in 2010. The 2006, 2007, 2008, and 2009 survey responses remain intact.

[4] For areas with a two-bedroom standard quality gross rent from the ACS that have a margin of error greater than the estimate or no estimate due to inadequate sample in the 2010 5-year ACS, HUD

Continued

Because HUD's regulations mandate that FMRs must be published as recent mover gross rents, HUD continues to apply a recent mover factor to the standard quality base rents assigned from the 5-year ACS data. Calculation of the recent mover factor is described in section B. below.

No local area rent surveys were conducted in 2011 or 2012 by HUD or PHAs, but the surveys conducted in 2010, for Williamsport, PA and Pike County, PA supersede the 2006–2010 ACS data.

B. Recent Mover Factor

Following the assignment of the standard quality two-bedroom rent described above, HUD applies a recent mover factor to these rents. In preparation for calculating the proposed FY 2013 FMRs, the department reviewed the methodology for calculating the recent mover factor from the FY 2012 process and made several improvements. The primary change is that HUD no longer compares the standard quality gross rent to the recent mover gross rent to determine if the two statistics are significantly different.[5] For the FY 2012 FMRs, if the two rents were determined to be statistically different the recent mover factor was calculated as the percentage increase of the recent mover gross rent over the standard quality gross rent. In cases where the two gross rents were not statistically different, the recent mover factor was set to one. As described below, HUD calculates a similar percentage increase as the FY 2013 factor using data from the smallest geographic area containing the FMR area where the recent mover gross rent is statistically reliable.[6] The following describes the process determining the appropriate recent mover factor. The revised recent mover factor process results in 91 percent of the FMR areas having a recent mover factor greater than one in FY 2013 compared with only 38 percent in FY 2012.

In general, HUD uses the 1 year ACS based two-bedroom statistically reliable recent mover gross rent estimate from the smallest geographic area encompassing the FMR area to calculate the recent mover factor. Some areas' recent mover factors will be calculated using data collected just for the FMR area. Other areas' recent mover factor will be based on larger geographic areas. For metropolitan areas that are subareas of larger metropolitan areas, the order is subarea, metropolitan area, state metropolitan area, and state. Metropolitan areas that are not divided follow a similar path from FMR area, to state metropolitan areas, to state. In nonmetropolitan areas the recent mover factor is based on the FMR area, the state nonmetropolitan area, or if that is not available, on the basis of the whole state. The recent mover factor is calculated as the percentage change between the 5-year 2006–2010 two-bedroom gross rent and the 1 year 2010 recent mover two-bedroom gross rent for the recent mover factor area. Recent mover factors are not allowed to lower the standard quality base rent; therefore, if the 5-year standard quality rent is larger than the comparable 1 year recent mover rent, the recent mover factor is set to 1. The process for calculating each area's recent mover factor is detailed in the FY 2013 Final FMR documentation system available at: *http://www.huduser.org/portal/datasets/fmr/fmrs/docsys.html&data=fmr13.*

This process produces an "as of" 2010 recent mover two-bedroom base gross rent for the FMR area.[7]

C. Updates From 2010 to 2011

The ACS based "as of" 2010 rent is updated through the end of 2011 using the annual change in CPI from 2010 to 2011. As in previous years, HUD uses Local CPI data for FMR areas with at least 75 percent of their population within Class A metropolitan areas covered by local CPI data. HUD uses Census region CPI data for FMR areas in Class B and C size metropolitan areas and nonmetropolitan areas without local CPI update factors. Following the application of the appropriate CPI update factor, HUD converts the "as of" 2011 CPI adjusted rents to "as of" December 2011 rents by multiplying each rent by the national December 2011 CPI divided by the national annual 2011 CPI value. HUD does this in order to apply an exact amount of the annual trend factor to place the FY 2013 FMRs as of the mid-point of the 2013 fiscal year.

D. Trend From 2011 to 2013

On March 9, 2011 (76 FR 12985), HUD published a notice requesting public comment regarding the manner in which it calculates the trend factor used in determining FMR estimates to meet the statutory requirement that FMRs be "trended so the rentals will be current for the year to which they apply". HUD's notice provided several proposed alternatives to the current trend factor and requested comments on the alternatives as well as suggestions of other ideas. In its publication of the proposed FY 2012 FMRs on August 19, 2011, (76 FR 52058) HUD discussed these comments and announced that a new trend factor would be used in the FY 2013 FMRs. HUD calculates the trend factor as the annualized change in median gross rents as measured between the 1 year 2005 ACS and the 1 year 2010 ACS. The median gross rent was $728 in 2005 and $855 in 2010. The overall change is 17.45 percent and the annualized change is 3.27%. Over a 15-month time period, the effective trend factor is 4.1 percent.

E. Bedroom Rent Adjustments

HUD calculates the primary FMR estimates for two-bedroom units. This is generally the most common sized rental unit and, therefore, the most reliable to survey and analyze. Formerly, after each decennial Census, HUD calculated rent relationships between two-bedroom units and other unit sizes and used them to set FMRs for other units. HUD did this because it is much easier to update two-bedroom estimates annually and to use pre-established cost relationships with other bedroom sizes than it is to develop independent FMR estimates for each bedroom size. For FY 2013 FMRs, HUD has updated the bedroom ratio adjustment factors using 2006–2010 5-year ACS data using similar methodology to what was implemented when calculating bedroom ratios using 2000 Census data to establish rent ratios. HUD again made adjustments to the bedroom ratios using 2006–2010 5-year ACS data for areas

uses the two-bedroom state non-metro rent for non-metro areas.

[5] The statistical comparison test used, the z-test, assumes that the samples from which the two statistics are calculated are independent. Because recent mover responders are also part of the standard quality responders, the two samples are not independent.

[6] For the purpose of the recent mover factor calculation, statistically reliable is where the recent mover gross rent has a margin of error that is less than the estimate itself. For example, if the estimate was 500 and the margin of error was 501, that estimate would not be used.

[7] The Pacific Islands (Guam, Northern Marianas and American Samoa) as well as the U.S. Virgin Islands are not covered by ACS data. As part of the 2010 Decennial Census, these areas were covered by a long-form survey. The results gathered by this long form survey are not expected to be available until later in 2012. Therefore, HUD uses the national change in gross rents, measured between 2009 and 2010 to update last year's FMR for these areas. Puerto Rico is covered by the Puerto Rico Community Survey within the American Community Survey; however, the gross rent data produced by the 2006–2010 ACS are not sufficient to adequately house voucher holders in Puerto Rico. This is due to the limited ability to eliminate units that do not pass the voucher program's housing quality standards. Consequently, HUD is updating last year's FMRs for Puerto Rico using the change in rents measured from all of Puerto Rico measured between the 2009 and 2010. For details behind these calculations, please see HUD's Final FY 2013 FMR documentation system available at: *http://www.huduser.org/portal/datasets/fmr/fmrs/docsys.html&data=fmr13.*

with local bedroom-size intervals above or below what are considered reasonable ranges, or where sample sizes are inadequate to accurately measure bedroom rent differentials. Experience has shown that highly unusual bedroom ratios typically reflect inadequate sample sizes or peculiar local circumstances that HUD would not want to utilize in setting FMRs (e.g., luxury efficiency apartments that rent for more than typical one-bedroom units). HUD established bedroom interval ranges based on an analysis of the range of such intervals for all areas with large enough samples to permit accurate bedroom ratio determinations. These ranges are: Efficiency FMRs are constrained to fall between 0.59 and 0.81 of the two-bedroom FMR; one-bedroom FMRs must be between 0.74 and 0.84 of the two-bedroom FMR; three-bedroom FMRs must be between 1.15 and 1.36 of the two-bedroom FMR; and four-bedroom FMRs must be between 1.24 and 1.64 of the two-bedroom FMR. HUD adjusts bedroom rents for a given FMR area if the differentials between bedroom-size FMRs were inconsistent with normally observed patterns (i.e., efficiency rents are not allowed to be higher than one-bedroom rents and four-bedroom rents are not allowed to be lower than three-bedroom rents).

Following the same methodology as was used when bedroom ratios were calculated using 2000 decennial Census long-form data, HUD continues to adjust the rents for three-bedroom and larger units to reflect HUD's policy to set higher rents for these units than would result from using unadjusted market rents. This adjustment is intended to increase the likelihood that the largest families, who have the most difficulty in leasing units, will be successful in finding eligible program units. The adjustment adds bonuses of 8.7 percent to the unadjusted three-bedroom FMR estimates and adds 7.7 percent to the unadjusted four-bedroom FMR estimates. The FMRs for unit sizes larger than four bedrooms are calculated by adding 15 percent to the four-bedroom FMR for each extra bedroom. For example, the FMR for a five-bedroom unit is 1.15 times the four-bedroom FMR, and the FMR for a six-bedroom unit is 1.30 times the four-bedroom FMR. FMRs for single-room occupancy units are 0.75 times the zero-bedroom (efficiency) FMR.

For low-population, nonmetropolitan counties with small or statistically insignificant 2006–2010 5-year ACS gross rents, HUD uses state non-metropolitan data to determine bedroom ratios for each bedroom size. HUD made this adjustment to protect against unrealistically high or low FMRs due to insufficient sample sizes.

V. Manufactured Home Space Surveys

The FMR used to establish payment standard amounts for the rental of manufactured home spaces in the HCV program is 40 percent of the FMR for a two-bedroom unit. HUD will consider modification of the manufactured home space FMRs where public comments present statistically valid survey data showing the 40th-percentile manufactured home space rent (including the cost of utilities) for the entire FMR area.

All approved exceptions to these rents that were in effect in FY 2012 were updated to FY 2013 using the same data used to estimate the HCV program FMRs. If the result of this computation was higher than 40 percent of the new two-bedroom rent, the exception remains and is listed in Schedule D. No additional exception requests were received in the comments to the FY 2013 FMRs. The FMR area definitions used for the rental of manufactured home spaces are the same as the area definitions used for the other FMRs.

VI. Small Area Fair Market Rents

Public housing authorities that operate in the Dallas, TX HMFA continue to manage their voucher programs using Small Area Fair Market Rents (SAFMRs). The updated SAFMRs for Dallas are listed in Schedule B Addendum.

SAFMRs are calculated using a rent ratio determined by dividing the median gross rent across all bedrooms for the small area (a ZIP code) by the similar median gross rent for the metropolitan area of the ZIP code. This rent ratio is multiplied by the current two- bedroom rent for the entire metropolitan area containing the small area to generate the current year two-bedroom rent for the small area. In small areas where the median gross rent is not statistically reliable, HUD substitutes the median gross rent for the county containing the ZIP code in the numerator of the rent ratio calculation. All other aspects of the methodology are consistent with the FMR methodology. The recent mover and bedroom ratio changes made to the area-wide FMRs were also made to the SAFMRs. In addition, the new trend factor is applied to the SAFMRs as well. For FY 2013 SAFMRs, HUD has implemented two changes to the rent ratio calculation methodology. First, HUD has updated the 2005–2009 5-year ACS based ZIP code median gross rent data with 2006–2010 5-year ZIP Code Tabulation Area (ZCTA) median gross rent data. The use of the more current ACS data is consistent with the update process in the FMR methodology. However, the change from ZIP code to ZCTA was a change that the Bureau of the Census made for its aggregation process; HUD has no control over the decision by Census to use ZCTA data instead of ZIP code data. Second, HUD expanded the criteria for determining the statistical reliability of the small area rent data in order to ensure that more SAFMRs are based on the data for the small area as opposed to using data from the parent county as a proxy. This change is consistent with the changes in the FMR methodology that eliminated the use of the statistical Z-test.[8]

VII. Public Comments

A. Overview

A total of 75 comments were received and posted on the regulations.gov site (*http://www.regulations.gov/#!docketDetail;dct=N%252BO%252BSR%252BPS;rpp=25;po=0;D=HUD-2012-0090* which is also linked on the HUD User FMR page *http://www.huduser.org/portal/datasets/fmr.html*). Most comments contested FMR reductions compared with the FY 2012 FMR and some contested reductions since the FY 2011 FMRs or earlier. These comments covered areas for all of North Dakota, most of Connecticut and New York, the San Francisco, Oakland and San Jose areas of California, the Bergen-Passaic, Newark and Ocean City areas of New Jersey, Anchorage and several non-metropolitan areas of Alaska, Dallas, TX and Burlington, VT. Other areas, some with modest increases in the two-bedroom FMR, contested decreases in 0-bedroom and 1-bedroom rents. These areas include Middlesex, NJ, Kansas City, MO, Williamsport, PA, Choctaw County, OK and Pender County, NC. Other areas, despite modest increases for the FY 2013 FMRs are still not back to their FY 2011 levels and continue to express a program need for higher FMRs, in areas such as Minneapolis, MN, St. Mary's County, MD, Summit County, UT, Hale County, TX and nonmetropolitan mining counties in Nevada. Some areas could not handle the modest decreases in the FMRs for smaller bedroom sizes coupled with increases for larger bedroom sizes.

[8] HUD has provided numerous detailed accounts of the calculation methodology used for Small Area Fair Market Rents. Please see our **Federal Register** notice of April 20, 2011 (76 FR 22125) for more information regarding the calculation methodology. Also, HUD's Final FY 2013 FMR documentation system available at (*http://www.huduser.org/portal/datasets/fmr/fmrs/docsys.html&data=fmr13*) contains detailed calculations for each ZIP code area in the Dallas, TX HMFA.

These areas include Springfield, MO and several nonmetropolitan counties in Missouri and Nebraska. A small town in Maine and a nonmetropolitan county in Texas wanted to receive rents closer to their neighboring metropolitan area. Agencies in Montgomery County, MD and the District of Columbia protested the decline in the FMR resulting from the loss of the 50th percentile FMR.

Several comments requested that HUD hold the FY 2013 FMRs harmless, that is they wanted the FMR to remain at the FY 2012 level, or the FY 2011 level if it would otherwise be lower. In addition to or instead of imposing hold harmless, several comments asked HUD to limit annual increases and decreases of FMRs to five percent. While HUD has been able to use such measures in limiting income limit increases and decreases, HUD is specifically precluded from incorporating these changes into the FMR methodology by the statutory language governing FMRs that requires the use of the most recent data. HUD is required to use the most recent available data and FMRs must increase or decrease based on this data. Ignoring decreases or phasing decreases or increases in over several years would not fully implement FMRs based on the most recent available data. This statutory language also applies to SAFMRs and the incorporation of new area definitions. Area definitions use the most current definitions available which were formulated using the 2000 decennial Census long-form data as their basis. The Department cannot return to area definitions based on 1990 decennial Census long-form data. Adjusted area definitions based on a combination of 2010 decennial Census and 5-year ACS data are expected in late 2013. HUD will review and incorporate these changes at that time.

Many of the comments also identified the lower rents for zero-bedroom and one-bedroom units in many areas. The development of new bedroom ratios means that some areas will have lower relationships to the two-bedroom FMR than they did in the past. Some areas with lower zero-bedroom and one-bedroom ratios had the FY 2013 FMR for these units decline, while the two-bedroom FMR increased. For the voucher program, the only relief from the decrease would be for PHAs to request exception payment standards for these smaller bedroom sizes. HUD is aware that the decreases in the zero-bedroom and one-bedroom FMRs have a disproportionate impact on homeless and elderly programs but there is no action HUD may take under current statute to provide relief for these programs. HUD also received several comments opposed to the large increases in the three-bedroom FMRs. The PHAs making these comments did not suggest that HUD revisit its national policy of including bonuses for large bedroom sized units, but were concerned with serving the same number of families while the FMRs for these bedroom sizes increased more than 10 percent. HUD cannot hold the FY 2013 FMRs harmless at the FY 2012 FMR levels for the bedroom ratio changes or incorporate caps and floors to phase in increases or decreases due to statutory limitations.

Several areas that experienced a decline in the FMR requested that HUD survey its area. HUD was unable to conduct any surveys in 2011 because the Department was studying the methodology used to conduct local area market rent surveys, and has very limited resources to conduct surveys in 2012. Therefore, HUD is choosing to focus its survey resources on areas without statistically significant one-year ACS local data. Areas considered for HUD funded surveys must also have large enough rental markets so that the new mail-based survey methodology is likely to capture significant results (please see section VIII of this notice for further information regarding the survey methodology). Based on the testing performed in 2011 and 2012, markets should typically contain at least 30,000 housing units. County groups can be assembled in non-metropolitan areas for the purposes of surveys, but these counties must have similar economic conditions and no county in a county group can have its published FMR be based on the state minimum FMR. HUD has experience conducting surveys in areas with low or no vacancy rates and this experience has shown that it is extremely difficult to capture gross rent levels that depict such tight markets. For that reason, HUD will provide emergency exception payment standards up to 135 percent of the FMR for the Section 8 voucher program in areas impacted by natural resource exploration. PHAs interested in applying for these emergency payment standards should contact their local HUD field office. Additionally, while FMRs cannot be held harmless, the HOME program does have a hold harmless provision for its rents. Other programs that use FMRs will have to pursue similar strategies such as exception payment standards or hold harmless provisions within the statutory and regulatory framework governing those programs.

B. Issues Raised in Comments and HUD Responses

In accordance with 24 CFR 888.115, HUD has reviewed the public comments that have been submitted by the due date and has determined that there are no comments with "statistically valid rental survey data that justify the requested changes." The following are HUD's responses to all known comments received by the comment due date and a part of the notice record at *http://www.regulations.gov/#!docketDetail;dct=N%252BO%252BSR%252BPS;rpp=25;po=0;D=HUD-2012-0090.*

FMRs Should Be Held Harmless at the FY 2012 Levels

Several comments requested that FMRs not be allowed to decline from their FY 2012 level. Some of these comments asked HUD to delay implementation of FY 2013 FMRs for their area to allow local housing authorities to complete a rent survey, or until HUD completes a survey for them.

HUD Response: HUD cannot ignore the more current 2010 American Community Survey (ACS) data and allow FMRs to stay the same as they were for FY 2012, which were based on gross rents from the 2009 ACS, except for two areas where there was a HUD-sponsored survey. By statute (42 USC 1437f(c)(1)(B)) and regulation (24 CFR 888.113(e)), HUD is required to use the most current data available. While rent surveys conducted either by HUD or a PHA would provide more current data than the ACS, these surveys take about two months to complete and can be quite expensive. HUD does not have the funds to conduct many surveys and HUD cannot delay the implementation of FY 2013 FMRs while new surveys are being conducted. Areas with relatively short-term market tightening are not easily measured by rent surveys. Based on past experience, HUD finds that an area must have rent increases or declines for a period of at least two years before changes can be measured by HUD or privately funded surveys. However, HUD will determine how many surveys can be administered based on its ongoing funding levels and will evaluate these survey results as quickly as possible. Should the survey results show market conditions that are statistically different from the published FMRs, HUD will revise the Final FY 2013 FMRs. If HUD is unable to complete a survey in a particular area and a local Housing Authority or other entity decides to undertake such a survey, HUD recommends following the survey guidance available at *http://*

www.huduser.org/portal/datasets/fmr.html. Just as with a HUD funded survey, HUD will review the results of these private surveys and will revise the Final FY 2013 FMRs if warranted.

Market Rents Did Not Decrease in the Past Year and Neither Should FMRs

Several comments were received that stated that market rents did not decrease over the past year and so FMRs also should not decrease.

HUD Response: FMRs should not be considered a time series of rent data for each market in which FMRs are published. FMR data cannot justify claims that rents in a particular area are increasing, decreasing, or unchanged. The FMR process is designed to develop the best estimate of rents for a particular area using the timeliest available data covering the entire market area; this process does not take into account whether previous FMRs make sense in light of new data, and no attempt is made to revise past FMR estimates. Therefore, year-over-year FMR changes can sometimes seemingly conflict with perceived market trends.

Annual revisions are now possible with the 5-year ACS data. Because of the nature of the ACS 5-year tabulations, however, 80 percent of the survey observations will remain the same from one year to the next.[i] Also, many small FMR areas rely on update factors based on survey results from a larger, encompassing geographic area (for example, state-based update factors used for nonmetropolitan counties). Even if the base rent is not adjusted, therefore, the annual changes do not necessarily reflect the housing market conditions for the smaller area but still represent HUD's best estimate of 40th-percentile gross rents in the FMR area.

FMR Decreases Do Not Reflect the Annual or Recent Change in Rents for an Area

Some comments provided apartment project rent data (many representing less than 30 percent of the rental market) that show that the rents for their area increased in the past year, while the FY 2013 FMRs show a decline from the FY 2012 FMRs.

HUD Response: FMRs are estimated rents, and can change from year-to-year in ways that are different from market rent changes or economic activity. First, as one commenter noted, when economic activity decreases, rents don't necessarily decrease and some increased economic activity that might put pressure on rents cannot be measured in real time. HUD is required to use the most current data available. HUD is also precluded from using sources of data that are not statistically significant. Rent reasonableness studies are not subject to the same constraints on statistical reliability and cannot be used to alter FMRs. Surveys of apartment projects provide indications of where the market is going, but do not account for the roughly one-third of the market made up of single family homes and attached, but small apartment projects (0–5 units). Much of the apartment project data was for larger apartment projects and represented less than 20 percent of the rental market.

The New Bedroom Ratios for Efficiencies and One-Bedroom Units Are Too Low

Several comments were received that noted that the efficiency and one-bedroom FMRs decreased substantially despite only a modest decrease or even a modest increase in the two-bedroom FMR.

HUD Response: HUD calculates the primary FMR estimates for two-bedroom units, generally the most common rental unit size and, therefore, the most reliable to survey and analyze. Formerly, after each decennial census, HUD calculated rent relationships between two-bedroom units and other unit sizes and used them to set FMRs for other units. HUD bases the calculations this way because it is much easier to update two-bedroom estimates and to use established rent relationships with other unit sizes than it is to develop independent FMR estimates for each unit size. HUD last updated bedroom-rent relationships using 2000 Census data. The 2006–2010 5 Year ACS data were the first publication of ACS data to use the 2010 Decennial census for geographic boundaries. Consequently, HUD implemented new bedroom ratios based on this 5-year ACS data to remove this tie to 2000 decennial Census based results. HUD developed new bedroom ratios based on the 5-year ACS data with the release of the 2010 ACS.

New bedroom ratios were calculated for each area using the same methodology as previously, with the exception that margin of error ratios were evaluated to select the bedroom ratio at the smallest area of encompassing geography with statistically reliable results. For example, a non-metropolitan county without many cases of efficiency rents and with a margin of error ratio of greater than one would use the state non-metro efficiency ratio instead of its own. However, most of the comments received on the decrease in the zero-bedroom and one-bedroom ratios covered areas where the bedroom ratios were based on data for their own area and all had very low margins of error.

HUD Should Not Punish High Cost Areas by Imposing Caps on Bedroom Ratios

HUD Response: HUD has always imposed national caps and floors on bedroom ratios based on the tenth and ninetieth percentile of the distribution of rents by bedroom size. The 2010 ACS data for one-bedroom rents resulted in a reduction in the one-bedroom cap from 0.90 percent of the two-bedroom FMR (based on the 2000 decennial census data) to 0.84 percent based on the 2010 ACS data. HUD cannot hold harmless its caps (and floors) for the reasons discussed above.

The Reduction in the Zero-Bedroom and One-Bedroom FMR Creates an Unfair Preference for Families Over Single Residents

HUD Response: HUD revised the bedroom ratios based on more current data; it is not establishing a new policy. These new bedroom ratios create new caps floors for the zero-bedroom and one-bedroom units that are lower than what were created using the 2000 decennial Census data. The methodology used to create the caps and floors is unchanged. The difference in the caps and floors is the use of 2010 ACS data versus the 2000 decennial Census data. HUD cannot go back to using the older data for the reasons discussed above.

The Decrease in the FMR for Smaller Bedroom Sizes Has a Disproportionate Impact on Elderly, Disabled and Homeless Programs

HUD Response: HUD recognizes that the reduction in efficiency and one-bedroom FMRs impacts these programs and is working to develop new tools or use existing ones that can alleviate program problems. PHAs may use Exception Payment Standards at 24 CFR 982.503(c), or Success Rate Payment Standards 24 CFR 982.503(e) for certain bedroom sizes, to the extent allowed.

The 2006–2010 ACS Data Is Not Current Enough for Small Metropolitan and Non-Metropolitan Counties in a Fast Growing Economy

A comment was received that suggested that only HUD surveys would provide the data necessary for an area without its own CPI area data.

HUD Response: The most significant factor driving FMRs changes in the area that provided this comment was the reduction in the recent mover adjustment factor from 1.26 percent in FY 2012 to about 1.10 percent for FY

2013. Both the FY 2012 and FY 2013 recent mover adjustment factors are large compared to other areas across the country. Base rents, however have changed very little and a majority of the FMR areas covered by this comment are areas where the Proposed FMR was increased by the state minimum rent. This means they are receiving a FMR higher than what the ACS would provide based on their own rents. Such areas cannot be surveyed because their own base rent starts out lower than what is used in the FMR. HUD has limited funds to conduct rent surveys and cannot survey an entire state, individually or as a group. Natural resource production issues affect most of the rents in this state and, for operation of the voucher program in these areas HUD instituted special exception payment standards of up to 135 percent for areas with vacancy rates at or near zero.

The Reduction in the Recent Mover Adjustment Factor Caused a Reduction in FMRs

HUD Response: While the recent mover adjustment factor cannot be below one, it can increase or decrease from year to year, just like the base rent for the FMR. This factor cannot be held harmless for the reasons discussed above.

FMR Areas Are Too Large and Do Not Reflect the Local Real Estate Market

The data and technology is available to determine FMRs by subsets of diverse counties.

HUD Response: For metropolitan areas, HUD has purchased special tabulations of median gross rent data from the Census by ZIP Code Tabulation Area (ZCTA). This data is not available for nonmetropolitan areas. HUD is currently conducting a demonstration program whereby PHAs run their voucher program using the small area FMRs (SAFMRs) the Department developed using this data. Originally HUD requested volunteers for this program, but no additional funds were available to help with the administration of the program. There were few volunteers, and several of these PHAs removed themselves from consideration during the vetting process. With limited funds available to help defray the additional administrative costs of operating the voucher program using SAFMRs, several randomly selected housing agencies have been selected and agreed to participate in a demonstration to use SAFMRs. The Dallas area continues to use SAFMRs as part of a court settlement.

FMRs Cannot Decrease in Economic Growth Areas; Some of These Areas Cannot Manage the Voucher Program Even With Modest FMR Increases

Several comments, even pertaining to FMR areas with decreases below 5 percent, or with modest increases, pressed for higher FMRs FY 2013 FMRs. Some of these areas had very tight markets and some of these areas already used payment standards at 110 percent of the FMRs.

HUD Response: For rent data, the ACS provides the most current data, and the 5-year 2006–2010 data is the most current data available for all areas. HUD must use the most current statistically significant data available. None of the areas that found FMRs too low because of economic and population growth provided statistically valid data that could be use to update the FY 2013 FMRs. To help manage the program during times of FMR decreases, PHAs may be able to use Success Rate Payment Standards 24 CFR 982.503(e), or request Exception Payment Standards for subareas within a FMR area (not to exceed 50 percent of the population) at 24 CFR 982.503(c).

Vacancy Rates Are Low, Making it Impossible To Absorb FMR Decreases

Several comments stated that low or no vacancy rates in areas with increased economic activity require higher FMRs so that voucher tenants can compete for housing. In these areas, there is not sufficient rental housing and generally the 2010 rental data from the ACS does not reflect this situation.

HUD Response: When a market tightens rapidly, the FMRs cannot keep pace. The most accurate, statistically significant data available to HUD is lagged by two years. Even if HUD conducts surveys of these areas, capturing the full scope of rent increases is difficult unless the market condition has been going on for more than two years; furthermore, it is challenging to get valid results for surveys of relatively small housing markets (under 1,000). Most of the areas suffering from these market conditions meet one or both of the criteria. Areas with sustained extremely low vacancy rates require construction of additional units. Higher FMR levels will not necessarily encourage additional development. These areas will have to rely on the use of Exception Payment Standards for subareas within an FMR area (not to exceed 50 percent of the population) as described at 24 CFR 982.503(c), or through the use of Success Rate Payment Standards available at 24 CFR 982.503(e) to alleviate market pressures. FMRs cannot be used to encourage building, which is what is needed.

FY 2013 FMR Decreases Reduce the Ability of Families To Find Affordable Housing

Several comments stated that decreases in FMRs would negatively affect tenants' ability to find affordable housing. The decrease in FMRs from FY 2012 to FY2013 will reduce the availability of affordable housing in the area; landlords will be able to get higher rents from tenants that are not Section 8 voucher holders and so many will opt out of the program.

HUD Response: FMRs must reflect the most current statistically valid data and this means that FMRs cannot be held harmless when this data shows a decline. Most of the declines in the FMRs are based on lower 2010 rents, in a few cases the 2010 to 2011 CPI adjustment reflects a decline.

FMR Reductions Will Lead to Poverty Concentration

Decreases in the FMR, whether by loss of a 50th percentile FMR status or by reductions in Small Area FMRs (SAFMRs) lead to poverty concentration and prevent tenants from moving to areas of opportunity.

HUD Response: HUD is required to increase or decrease FMRs (and SAFMRs are the FMR for Dallas) based on the most currently available data that meets the statistical significance tests. PHAs may use the Exception Payment Standard to increase payment standards for higher rent areas and reduce poverty concentration. PHAs may use the Exception Payment Standards above to reduce poverty concentration in portions of the FMR. Areas that lost their 50th percentile FMR, because they graduated from the program or failed to show measurable poverty deconcentration can use higher payment standards as shown at 24 CFR 982.503(f) to mitigate FMR decreases.

A Reduction in the FMRs Puts HUD-Financed Projects and Low-Income Housing Tax Credit Projects at Risk

If a current HUD Section 8 project uses rents at 110 percent of the FMR, a reduction in the FMR puts this project at risk. An FMR reduction could mean that LIHTC landlords will no longer accept Section 8 voucher tenants.

HUD Response: HUD is required to increase or decrease FMRs based on the most currently available data that meets the statistical reliability tests. PHAs may use the Exception Payment Standard to increase payment standards for higher rent areas and reduce poverty concentration. While there are no

project-based exception areas, an area already at 110 percent of the FMR may be eligible for Success Rate Payment Standards or a portion of the FMR area may be granted exceptions above 110 percent, if warranted. PHAs interested in exploring this option are encouraged to review the FY 2013 Small Area FMRs published at *http://www.huduser.org/portal/datasets/fmr.html* in the section labeled "Small Area FMRs." The manner in which SAFMRs are calculated makes them ideal to be used as in the "median rent method" section of the exception payment standard regulations found at 24 CFR 982.503(c)(2)(A).

FY 2013 FMR Decreases Will Require Existing Tenants To Pay a Greater Share of Their Income on Rents

Several comments stated that their current tenants will have to pay a greater share of their income on rents, with FMR decreases.

HUD Response: New tenants are not allowed to pay more than 40 percent of their income on rent. Existing tenants will not have to pay rent based on reduced FMRs until the second anniversary of their Housing Assistance Payment (HAP) contract. If tenant rent burden increases for an area, PHAs may use this as a justification for higher payment standards.

Disabled and Difficult To Place Residents Suffer a Disproportionately Greater Impact From FMR Decreases Because They Have Fewer Housing Choice Options

Disabled residents already have fewer units available to them, and reducing the FMR will further reduce their options. Difficult to place residents, because of history of late payments or other options, will have fewer landlords willing to rent to them if the FMR is lower.

HUD Response: If an FMR decreases there may be fewer units available at or below the FMR. However, HUD must use the most current data available and rents may increase and decrease. The data used as the basis for FY 2013 FMRs is more current than what was available in the estimation of the 40th percentile FMRs for FY 2012, so while more units were available, those rents are being replaced with rents based on more current information. If a family has a member with a disability, a PHA may establish a higher payment standard for that family as a reasonable accommodation as discussed in 24 CFR 982.505(d).

Construction or Preservation of Affordable Housing Is Threatened by FMR Decreases

In areas where affordable housing construction is increasing, a reduction in the FMR will reduce the benefit of existing affordable housing projects and may prevent additional affordable housing construction.

HUD Response: Maximum allowable rents in Low-Income Housing Tax Credit properties are set based upon 50- or 60-percent income limit levels, or if the FMR is higher, this amount can be used for voucher holders. If the FMR is below the rent determined by the income limit levels, then generally the income limit rent is used. So if FMRs fall below the income limit rents, voucher holders would either pay more out of pocket for units or would be unable to use their voucher for these units. However, PHAs could use their authority to adjust payment standards where warranted, to increase FMRs so voucher holders can have access to these existing units. FMRs are used in the determination of High and Low Rent levels for HOME funded projects. However, when the income limit hold harmless policy was removed for the FY 2010 Income Limits, HUD instituted a specific hold harmless provision for HOME rents. A decrease in the FY 2013 FMR will not necessarily affect HOME rents or home project funding.

HUD Should Institute 5 Percent Caps and Floors When Incorporating new Area Definitions in 2013

HUD Response: HUD recently received a decision by program counsel that HUD does not have the authority to institute floors or caps when evaluating the new area definitions. A statutory or regulatory change is necessary before HUD may impose caps and floors.

HUD's "New Methodology" for Larger Bedroom Sizes Is Inflationary and Usurps the PHA Roles of Rent Reasonableness Determinations

For bedroom sizes greater than four-bedroom units, HUD provides a formula equal to 15 percent greater for each bedroom size, such that a six-bedroom unit is 1.3 times a four-bedroom unit. The difference in costs is actually ten percent.

HUD Response: While the new bedroom ratios were calculated based on 2010 ACS data and replace the bedroom ratios based on 2000 decennial Census long form data, the adjustment of 15 percent per bedroom for bedrooms greater than four-bedroom units is not new and does not supplant the need to conduct rent reasonable studies for units with more then four-bedrooms. The adjustment allows for the calculation of a five-bedroom or larger FMR, which is not shown on the tables in schedule B. It does not reflect a payment standard.

Rents Should Be More Like Neighboring Metropolitan Areas

Two nonmetropolitan areas requested higher rents based on neighboring metropolitan areas.

HUD Response: HUD will not make changes to metropolitan area composition until OMB publishes new metropolitan area definitions, which are expected sometime during 2013 (please see OMB's 2010 **Federal Register** notices on this matter available at *http://www.whitehouse.gov/sites/default/files/omb/assets/fedreg_2010/06282010_metro_standards-Complete.pdf*). HUD has never incorporated new nonmetropolitan areas into metropolitan areas and relies on OMB guidance for determining metropolitan areas. HUD has taken counties out of metropolitan definitions based on rent and income differences and may revisit this methodology when the new metropolitan area definitions are incorporated.

Small Area FMRs Should Not Be Used; HUD Has Not Adequately Addressed the Potential for Disinvestment in Reinvestment and/or Low-Income Areas

HUD's floor of 10 percent for the SAFMR demonstration program represents a substantial drop in rents. SAFMRs should not be used for Difficult to Develop Areas. In general, the use of ZIP codes as areas does not represent housing markets and should not be used for SAFMRs.

HUD Response: HUD published a **Federal Register** notice requesting comments on the use of SAFMRs in the designation of DDAs. HUD continues to use SAFMRs in Dallas, as part of a settlement agreement which did not include the implementation of caps and floors. The operation of SAFMRs in Dallas varies from the invitational demonstration program and so information collected from Dallas will initially need to be analyzed independently from data collected from other participating PHAs SAFMRs must reflect a level of geography smaller than a county, and while tract level data is available, it is not feasible to consider as the basis for SAFMRs. A typical single Census Tract is too small to be used for setting SAFMRs. Any methodology used by the Department to aggregate Census Tracts places the Department in the unenviable position of having to constantly defend the aggregation

methodology. Although ZIP codes are created for the efficient delivery of mail, they have the distinct advantage that they are large enough to provide a suitable number of housing units, small enough to depict variation in rental across metropolitan areas and, most importantly, through Census Bureau ACS ZCTA data aggregations, have sufficient gross rent data to use in the calculation of SAFMRs.

HUD's Use of a "Public Housing Rent" Threshold Is Too Low

The public housing cutoff rent should include rents for housing serving low income residents (at 80 percent of the area median income (AMI)). HUD underestimates its public housing rent cutoff by basing it on the 75th percentile of the public housing rents; it should be at the 95th percentile, or greater. Public housing rents do not include debt service and HUD provides PHAs with assistance in covering operating expenses and capital maintenance such that public housing rents are much lower than what is required for a housing quality adjustment.

HUD Response: The public housing cutoff rent is used as a proxy to remove substandard units and those renting in non-market transactions from the standard quality distribution of rents. Removing all rents below what would be affordable for low-income families from the distribution would not reflect entire rental markets as contemplated by the FMR Statute and regulations. Not all affordable housing should be included in this cutoff amount. Some affordable rental housing, especially for families at 80 percent of the AMI could have rents that are well above the 40th percentile rent. The use of the 40th percentile' distribution coupled with the elimination of the bottom of the distribution below the public cutoff rent on top of rents that were already adjusted for standard quality by the Bureau of the Census in our special tabulations, provides enough of an adjustment.

HUD Should Use a Local Trend Factor, Rather Than a National Trend Factor

A different commenter supported the new national trend factor as appropriate in minimizing year-to-year volatility.

HUD Response: HUD published a **Federal Register** notice on March 9, 2011, requesting comments on a revised trend factor (76 FR 12985). Few comments were received on this notice and a clear consensus could not be reached based on these comments for the new trend factor. A few comments suggested the use of more local data, but there were also a few comments opposing a more local factor. HUD believes that enough uncertainty has been added by changing the previously 10-year national trend factor into an annual national trend factor and does not want to increase the volatility in the FMR based solely on changes in the trend factor.

HUD Should Change Its Methodology Such That Units Built in the Past Two Years Are Not Excluded From the Data Used To Calculate FMRs

Many of the units built in the past two year are affordable housing units.

HUD Response: The methodology to calculate FMRs has always excluded those units built in the past two years. This was done as a proxy for eliminating luxury units. If these units are not at the upper end of the distribution, and are in fact, mainly affordable housing units, then the distribution of rents is not reduced and the 40th percentile rent is higher than what it would be if these units were truly at the high end of the distribution of rents.

Large FMR Increases Do Not Reflect Market Conditions and Will Hurt Housing Choice Voucher Families

HUD should not increase FMRs at a time when federal agencies should be freezing or reducing costs. One comment stated that the FMR increases will result in fewer families being served. The change in the three-bedroom ratio results in a large increase in this unit size FMR.

HUD Response: Just as HUD must use current data that results in FMR decreases, so HUD must use current data that results in increases. HUD determines FMRs based on the most current statistically reliable data. While the three-bedroom cap only increased modestly, from 1.34 using the 2000 decennial Census to 1.36 using the 2010 ACS data, there are more significant changes by FMR area. Neither base rent increases nor increases resulting from a change in the bedroom ratio may be held harmless. Rent reasonableness studies can be used to set the payment standard below the FMR if the FMR is in fact too high for particular units of acceptable quality chosen by voucher tenants. It should be noted that a comment filed in response to FY 2012 Proposed FMRs made a similar claim, yet apparently did not reduce its payment standards, and, in fact, has applied for exception payment standard based on the higher FY 2012 FMRs.

Homelessness Will Increase in Areas Where the FY 2013 FMRs Decreased

Several comments suggest that FMR decreases, even those under five percent, will reduce the ability of tenants to find units that meet housing quality standards and will increase homelessness, as fewer units are available at the lower FMR.

HUD Response: Where market conditions warrant, HUD encourages PHAs to use Exception Payment Standards and Success Rate Payment Standards to increase voucher holder's success in finding housing.

Decreases in FMRs Will Undo PHAs Efforts To Maintain a High Success Rate; Program Utilization Will Be Reduced With Lower FMRs

HUD Response: Where market conditions warrant, HUD encourages PHAs to use Exception Payment Standards and Success Rate Payment Standards to increase voucher holder's success in finding housing.

HUD Should Institute Caps and Floors To Limit Annual FMR Changes to Five Percent

A five percent change in the FMR triggers a rent reasonableness study, which is costly for cash-strapped PHAs. HUD should have instituted the same cap and floor of five percent that it instituted for Income Limits with the FY 2010 Income Limits.

HUD Response: HUD is constrained by legal and regulatory language for its calculation of FMRs, and therefore cannot ignore the requirement to use the most current data by only implementing FMR changes in five percent increments. Statutory and regulatory changes are required before HUD would be able to implement any methodology changes to not fully use the most current rent data in setting FMRs. No such regulation or legislative requirement governs the calculation of income limits and prior to FY 2010, income limits were held harmless, that is, not allowed to ever decline. The change to incorporate caps and floors of up to five percent was a way to remove this hold harmless policy and create parity with increases and decreases.

The Loss of 50th Percentile FMRs Puts Voucher Families at Risk for Rent Increases, Rejection and Moving to Areas of Greater Poverty

HUD should not take away 50th percentile FMRs for PHAs meeting deconcentration objectives under SEMAP; HUD should use its regulatory authority to reinstate 50th percentile FMRs for these areas. HUD's evaluation of 50th percentile areas included FY

2009, a year of voucher funding shortfalls that limited the 50th percentile FMRs. HUD should change it requalification analysis.

HUD Response: Of the seven areas evaluated for requalification, only one area did not deconcentrate and is not eligible for evaluation until FY 2016. This area was one of the original 50th percentile FMR areas in FY 2002 and has had 50th percentile FMRs continuously. The decrease in the FMR as a result of the loss of the 50th percentile is difficult for all PHAs that operate in that area, but HUD has the authority to grant payment standard protection for PHAs that meet deconcentration objectives under 24 CFR 982.503(f). This request must be made to the HUD Field Office, and not through the comment process.

The FY 2013 Small Area FMRs for Dallas Do Not Affirmatively Further Fair Housing

Where FY 2013 SAFMRs in the Dallas, TX FMR Area are below what they were in FY 2011, the first year SAFMRs were used, the comment states that HUD is violating its duty to affirmatively further fair housing.

HUD Response: HUD must follow its statutory and regulatory requirements to update FMRs using the most current data available. This means that both increases and decreases must be applied to the Dallas SAFMRs. A decrease that reflects more current data does not prevent HUD from affirmatively further fair housing. The data HUD uses in the calculation of FMRs (both metropolitan-wide and small area FMRs) are compiled across all survey respondents in a given area and are not segmented in any way by demographic traits.

The FMRs Are Too Low and Do Not Reflect Market Rents; HUD Must Conduct a Survey of Rents

HUD Response: While rent surveys conducted either by HUD or a PHA would provide more current data, these surveys take about two months to complete and are quite expensive. HUD does not have the funds to conduct many surveys and HUD cannot delay the implementation while new surveys are being conducted. Areas with relatively short-term market tightening are not easily measured by rent surveys. Based on past experience, HUD finds that an area must have rent increases or declines for a period of at least two years before it can be measured.

HUD Should Replace the Use of the 2010 ACS Data for One Area With a 2011 Census Survey of a Subarea

HUD Response: The use of the more current 2011 Census survey to set base rents is a problem because the survey covers only a portion of the FMR area; excluded from this survey are several counties that are part of the FMR area. For the 2011 data to be used the survey results have to be from the entire FMR area, not just a subarea. Further, one of these excluded counties is required, by statute be included in that area's FMR calculation.

HUD Should Provide Information on the Utility Costs Included in FMRs

HUD Response: HUD uses gross rents from the ACS to establish base rents and to determine recent mover factor adjustments.

HUD Should Publish 2000 Decennial Census Data To Help PHAs Determine Exception Payment Standards

HUD Response: HUD has decennial Census tract level data that its Field Economists or Headquarters Economists use to determine exception payment standards for PHAs. However, lately HUD has relied on the SAFMRs, published by ZIP Code, which are based on the 2010 ACS data. This data for metropolitan areas only is already available to PHAs at *http://www.huduser.org/portal/datasets/fmr/fmrs/index_sa.html&data=fy2013.*

For Areas Without Their Own CPI, AAFs Should Be Provided for the 10 HUD Regions Instead of the Four Census Regions

HUD Response: The 10 HUD regional AAFs, for both metropolitan and non-metropolitan areas were calculated based on a very expensive survey that HUD conducted. This data was used to adjust the FMR for areas without local CPI data. When the 2000 decennial Census data was released, HUD analyzed the FMR using the survey data and found that the survey data did not improve the FMR estimation over what it would have been using the CPI. The cost of that data collection effort was not worthwhile. HUD did not stop the survey because of budgetary problems; HUD stopped the survey because it did not significantly improve the estimation of the FMR.

VIII. Rental Housing Surveys

In 2011, HUD solicited bidders to study the methodology used to conduct local area surveys of gross rents to determine if the Random Digit Dialing (RDD) methodology could be improved upon. The Department undertook this study due to the increasing costs and declining response rates associated with telephone surveys. Furthermore, the advent of the 1-year ACS limits the need for surveys in large metropolitan areas. Based on this research, the Department decided that its survey methodology should be changed with mail surveys being the preferred method for conducting surveys, because of the lower cost and greater likelihood of survey responses. These surveys, however, take almost twice as long to conduct as prior survey methods took, and when response times are most critical, the Department may choose to conduct random digit dialing surveys as well, as the budget permits. The methodology for both types of surveys along with the survey instruments is posted on the HUD USER Web site, at the bottom of the FMR page in a section labeled Fair Market Rent Surveys at: *http://www.huduser.org/portal/datasets/fmr.html.*

Other survey methodologies are acceptable in providing data to support comments if the survey methodology can provide statistically reliable, unbiased estimates of the gross rent. Survey samples should preferably be randomly drawn from a complete list of rental units for the FMR area. If this is not feasible, the selected sample must be drawn to be statistically representative of the entire rental housing stock of the FMR area. Surveys must include units at all rent levels and be representative of structure type (including single-family, duplex, and other small rental properties), age of housing unit, and geographic location. The 2006–2010 5-year ACS data should be used as a means of verifying if a sample is representative of the FMR area's rental housing stock.

Most surveys cover only one- and two-bedroom units, which has statistical advantages. If the survey is statistically acceptable, HUD will estimate FMRs for other bedroom sizes using ratios based on the 2006–2010 5-year ACS data. A PHA or contractor that cannot obtain the recommended number of sample responses after reasonable efforts should consult with HUD before abandoning its survey; in such situations, HUD may find it appropriate to relax normal sample size requirements.

HUD will consider increasing manufactured home space FMRs where public comment demonstrates that 40 percent of the two-bedroom FMR is not adequate. In order to be accepted as a basis for revising the manufactured home space FMRs, comments must include a pad rental survey of the mobile home parks in the area, identify the utilities included in each park's

rental fee, and provide a copy of the applicable public housing authority's utility schedule.

As stated earlier in this Notice, HUD is required to use the most recent data available when calculating FMRs. Therefore, in order to re-evaluate an area's FMR, HUD requires more current rental market data than the 2010 ACS.

IX. Environmental Impact

This Notice involves the establishment of fair market rent schedules, which do not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this Notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Accordingly, the Fair Market Rent Schedules, which will not be codified in 24 CFR part 888, are amended as shown in the Appendix to this notice:

Dated: September 27, 2012.

Erika C. Poethig,

Acting Assistant Secretary for Policy Development and Research.

Fair Market Rents for the Housing Choice Voucher Program

Schedules B and D—General Explanatory Notes

1. Geographic Coverage

a. *Metropolitan Areas*—Most FMRs are market-wide rent estimates that are intended to provide housing opportunities throughout the geographic area in which rental-housing units are in direct competition. HUD is using the metropolitan CBSAs, which are made up of one or more counties, as defined by the Office of Management and Budget (OMB), with some modifications. HUD is generally assigning separate FMRs to the component counties of CBSA Micropolitan Areas.

b. *Modifications to OMB Definitions*—Following OMB guidance, the estimation procedure for the FY 2013 Final FMRs incorporates the most current OMB definitions of metropolitan areas based on the CBSA standards as implemented with 2000 Census data, but makes adjustments to the definitions to separate subparts of these areas where FMRs or median incomes would otherwise change significantly if the new area definitions were used without modification. In CBSAs where subareas are established, it is HUD's view for programmatic purposes that the geographic extent of the housing markets are not yet the same as the geographic extent of the CBSAs, but may become so in the future as the social and economic integration of the CBSA component areas increases. Modifications to metropolitan CBSA definitions are made according to a formula as described below.

Metropolitan area CBSAs (referred to as MSAs) may be modified to allow for subarea FMRs within MSAs based on the boundaries of old FMR areas (OFAs) within the boundaries of new MSAs. (OFAs are the FMR areas defined for the FY 2005 FMRs. Collectively they include 1999-definition MSAs/Primary Metropolitan Statistical Areas (PMSAs), metro counties deleted from 1999-definition MSAs/PMSAs by HUD for FMR purposes, and counties and county parts outside of 1999-definition MSAs/PMSAs referred to as nonmetropolitan counties.) Subareas of MSAs are assigned their own FMRs when the subarea 2000 Census Base Rent differs by at least 5 percent from (i.e., is at most 95 percent or at least 105 percent of) the MSA 2000 Census Base Rent, or when the 2000 Census Median Family Income for the subarea differs by at least 5 percent from the MSA 2000 Census Median Family Income. MSA subareas, and the remaining portions of MSAs after subareas have been determined, are referred to as HUD Metro FMR Areas (HMFAs) to distinguish these areas from OMB's official definition of MSAs.

The specific counties and New England towns and cities within each state in MSAs and HMFAs are listed in Schedule B.

2. Bedroom Size Adjustments

Schedule B shows the FMRs for zero-bedroom through four-bedroom units. The Schedule B addendum shows Small Area FMRs for PHAs operating using Small Area FMRs within the Dallas, TX HMFA. The FMRs for unit sizes larger than four bedrooms are calculated by adding 15 percent to the four-bedroom FMR for each extra bedroom. For example, the FMR for a five-bedroom unit is 1.15 times the four-bedroom FMR, and the FMR for a six-bedroom unit is 1.30 times the four-bedroom FMR. FMRs for single-room-occupancy (SRO) units are 0.75 times the zero-bedroom FMR.

3. Arrangement of FMR Areas and Identification of Constituent Parts

a. The FMR areas in Schedule B are listed alphabetically by metropolitan FMR area and by nonmetropolitan county within each state. The exception FMRs for manufactured home spaces in Schedule D are listed alphabetically by state.

b. The constituent counties (and New England towns and cities) included in each metropolitan FMR area are listed immediately following the listings of the FMR dollar amounts. All constituent parts of a metropolitan FMR area that are in more than one state can be identified by consulting the listings for each applicable state.

c. Two nonmetropolitan counties are listed alphabetically on each line of the non-metropolitan county listings.

d. The New England towns and cities included in a nonmetropolitan county are listed immediately following the county name.

BILLING CODE 4210–67–P

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

ALABAMA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anniston-Oxford, AL MSA	463	484	636	822	855	Calhoun
Auburn-Opelika, AL MSA	487	490	663	913	1120	Lee
Birmingham-Hoover, AL HMFA	554	662	785	1031	1160	Bibb, Blount, Jefferson, St. Clair, Shelby
Chilton County, AL HMFA	419	471	594	795	1052	Chilton
Columbus, GA-AL MSA	530	621	736	1014	1304	Russell
Decatur, AL MSA	431	521	618	857	883	Lawrence, Morgan
Dothan, AL HMFA	424	454	584	779	963	Geneva, Houston
Florence-Muscle Shoals, AL MSA	454	457	584	780	783	Colbert, Lauderdale
Gadsden, AL MSA	391	505	657	818	923	Etowah
Henry County, AL HMFA	424	454	584	861	963	Henry
Huntsville, AL MSA	471	527	650	894	945	Limestone, Madison
Mobile, AL MSA	616	643	762	1021	1174	Mobile
Montgomery, AL MSA	629	665	790	1086	1291	Autauga, Elmore, Lowndes, Montgomery
Tuscaloosa, AL MSA	469	595	788	989	1123	Greene, Hale, Tuscaloosa
Walker County, AL HMFA	472	482	584	807	980	Walker

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Baldwin	472	615	729	1074	1261
Bullock	469	493	584	772	1034
Chambers	460	463	627	781	932
Choctaw	547	551	745	928	1111
Clay	434	437	584	783	786
Coffee	488	491	630	854	883
Coosa	469	493	584	727	780
Crenshaw	429	432	584	823	871
Dale	390	458	585	852	1024
DeKalb	347	451	584	730	931
Fayette	469	493	584	766	1034
Jackson	469	493	584	727	800
Macon	506	509	689	858	976
Marion	469	478	584	848	850
Monroe	469	493	584	861	1034
Pickens	444	447	605	753	809
Randolph	498	501	634	790	847
Talladega	429	432	584	797	800
Washington	469	493	584	861	876
Winston	469	493	584	800	1034

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Barbour	429	432	584	727	780
Butler	442	445	584	848	871
Cherokee	469	487	584	861	871
Clarke	449	452	584	815	868
Cleburne	485	488	660	822	882
Conecuh	447	450	584	861	864
Covington	448	451	584	844	937
Cullman	472	481	588	741	786
Dallas	391	453	613	784	999
Escambia	489	510	605	753	879
Franklin	429	432	584	727	871
Lamar	469	493	584	727	871
Marengo	463	466	584	777	780
Marshall	494	498	662	912	915
Perry	447	450	584	852	871
Pike	472	493	584	857	860
Sumter	469	493	584	727	819
Tallapoosa	460	463	584	796	798
Wilcox	429	432	584	727	780

ALASKA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anchorage, AK HMFA	745	862	1104	1627	1955	Anchorage
Fairbanks, AK MSA	695	864	1169	1723	2007	Fairbanks North Star
Matanuska-Susitna Borough, AK HMFA	663	767	1015	1496	1798	Matanuska-Susitna

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

ALASKA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Aleutians East	632	742	880	1096	1271
Bethel	984	1126	1524	1898	2037
Denali	595	698	828	1220	1224
Haines	644	727	897	1322	1326
Juneau	808	980	1326	1735	2062
Ketchikan Gateway	656	847	1102	1624	1762
Lake and Peninsula	493	579	686	922	1215
North Slope	760	958	1136	1415	1821
Petersburg	666	686	928	1156	1644
Sitka	861	913	1235	1720	1783
Southeast Fairbanks	727	859	1139	1419	1959
Wade Hampton	614	721	855	1065	1235
Yakutat	519	564	723	1065	1281
Aleutians West	941	1169	1581	1969	2283
Bristol Bay	776	799	1081	1454	1459
Dillingham	780	916	1086	1353	1568
Hoonah-Angoon	599	616	834	1039	1288
Kenai Peninsula	672	712	892	1118	1462
Kodiak Island	739	871	1089	1605	1929
Nome	879	1092	1478	1841	1975
Northwest Arctic	935	977	1158	1442	1548
Prince of Wales-Hyder	674	679	918	1143	1227
Skagway	825	969	1149	1431	1659
Valdez-Cordova	685	724	905	1274	1377
Wrangell	493	535	686	1011	1014
Yukon-Koyukuk	654	671	809	1008	1255

ARIZONA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Flagstaff, AZ MSA	733	852	1066	1353	1724	Coconino
Lake Havasu City-Kingman, AZ MSA	488	603	769	1043	1206	Mohave
*Phoenix-Mesa-Glendale, AZ MSA	593	748	925	1363	1592	Maricopa, Pinal
Prescott, AZ MSA	571	648	819	1207	1276	Yavapai
*Tucson, AZ MSA	521	651	876	1286	1531	Pima
Yuma, AZ MSA	553	591	780	1149	1316	Yuma

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Apache	379	463	626	784	942
Gila	520	541	729	1053	1235
Greenlee	446	463	626	780	837
Navajo	498	502	679	958	967
Cochise	551	569	712	1028	1261
Graham	387	546	650	958	961
La Paz	483	500	677	843	1051
Santa Cruz	483	546	677	854	1199

ARKANSAS

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Fayetteville-Springdale-Rogers, AR HMFA	446	510	655	965	1138	Benton, Madison, Washington
Fort Smith, AR-OK HMFA	502	505	662	882	994	Crawford, Sebastian
Franklin County, AR HMFA	453	456	617	795	927	Franklin
Grant County, AR HMFA	421	493	585	862	1036	Grant
Hot Springs, AR MSA	428	531	719	957	1174	Garland
Jonesboro, AR HMFA	380	505	625	878	881	Craighead
Little Rock-North Little Rock-Conway, AR HMFA	537	620	745	1041	1156	Faulkner, Lonoke, Perry, Pulaski, Saline
Memphis, TN-MS-AR HMFA	567	648	768	1049	1170	Crittenden
Pine Bluff, AR MSA	421	495	659	825	1009	Cleveland, Jefferson, Lincoln
Poinsett County, AR HMFA	367	447	585	857	1010	Poinsett
Texarkana, TX-Texarkana, AR MSA	447	579	712	887	952	Miller

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

ARKANSAS continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Arkansas	449	452	612	762	868
Baxter	440	447	596	874	1056
Bradley	417	438	593	861	864
Carroll	480	484	641	835	857
Clark	477	480	633	839	846
Cleburne	467	470	602	790	923
Conway	467	470	636	792	1031
Dallas	456	493	585	862	1023
Drew	429	432	585	841	1036
Greene	370	438	590	819	1045
Hot Spring	456	493	585	779	904
Independence	443	446	604	765	970
Jackson	429	432	585	862	1036
Lafayette	429	432	585	862	885
Lee	456	493	585	749	782
Logan	348	432	585	729	816
Mississippi	365	432	585	778	863
Montgomery	518	521	705	878	1067
Newton	430	433	586	730	887
Phillips	429	432	585	862	954
Polk	449	452	585	783	786
Prairie	456	493	585	862	1036
St. Francis	477	498	590	821	944
Searcy	429	432	585	729	782
Sharp	429	432	585	769	877
Union	476	479	648	807	926
White	523	526	712	1049	1103
Yell	429	432	585	862	1036

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Ashley	429	432	585	792	795
Boone	429	432	585	817	982
Calhoun	429	432	585	729	885
Chicot	432	435	585	862	1036
Clay	429	432	585	759	802
Columbia	429	432	585	824	826
Cross	462	465	601	827	1002
Desha	429	432	585	803	1007
Fulton	429	432	585	729	885
Hempstead	456	478	585	729	951
Howard	390	432	585	769	946
Izard	429	432	585	729	804
Johnson	446	449	603	751	924
Lawrence	429	432	585	778	931
Little River	424	438	592	737	1049
Marion	429	432	585	729	856
Monroe	429	432	585	795	1006
Nevada	429	432	585	755	1016
Ouachita	450	453	585	753	782
Pike	444	447	585	729	885
Pope	460	463	619	845	1096
Randolph	429	432	585	747	885
Scott	431	434	587	731	888
Sevier	456	464	585	751	821
Stone	429	432	585	751	885
Van Buren	456	493	585	743	885
Woodruff	429	432	585	862	885

CALIFORNIA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bakersfield-Delano, CA MSA	610	614	804	1179	1424	Kern
Chico, CA MSA	532	666	878	1253	1555	Butte
El Centro, CA MSA	523	636	822	1211	1456	Imperial
Fresno, CA MSA	668	695	978	1234	1440	Fresno
Hanford-Corcoran, CA MSA	486	575	778	1106	1163	Kings
Los Angeles-Long Beach, CA HMFA	911	1101	1421	1921	2140	Los Angeles
Madera-Chowchilla, CA MSA	632	636	861	1251	1372	Madera
Merced, CA MSA	507	587	772	1138	1367	Merced
Modesto, CA MSA	594	734	941	1387	1609	Stanislaus
Napa, CA MSA	776	973	1302	1858	1864	Napa
Oakland-Fremont, CA HMFA	892	1082	1361	1901	2332	Alameda, Contra Costa
*Orange County, CA HMFA	1126	1294	1621	2268	2525	Orange

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

CALIFORNIA continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Oxnard-Thousand Oaks-Ventura, CA MSA	934	1116	1499	2070	2396	Ventura
Redding, CA MSA	734	755	949	1398	1559	Shasta
*Riverside-San Bernardino-Ontario, CA MSA	763	879	1116	1577	1924	Riverside, San Bernardino
*Sacramento--Arden-Arcade--Roseville, CA HMFA	717	855	1073	1581	1900	El Dorado, Placer, Sacramento
Salinas, CA MSA	864	971	1223	1784	1994	Monterey
San Benito County, CA HMFA	701	871	1179	1737	2088	San Benito
San Diego-Carlsbad-San Marcos, CA MSA	959	1054	1382	2009	2448	San Diego
San Francisco, CA HMFA	1093	1423	1795	2438	2948	Marin, San Francisco, San Mateo
San Jose-Sunnyvale-Santa Clara, CA HMFA	1079	1262	1610	2270	2574	Santa Clara
San Luis Obispo-Paso Robles, CA MSA	761	880	1136	1674	1746	San Luis Obispo
Santa Barbara-Santa Maria-Goleta, CA MSA	1035	1190	1426	1906	2206	Santa Barbara
Santa Cruz-Watsonville, CA MSA	970	1173	1587	2045	2282	Santa Cruz
Santa Rosa-Petaluma, CA MSA	873	1018	1332	1963	2301	Sonoma
Stockton, CA MSA	638	760	997	1469	1766	San Joaquin
Vallejo-Fairfield, CA MSA	739	931	1166	1718	2043	Solano
Visalia-Porterville, CA MSA	575	590	768	1132	1316	Tulare
Yolo, CA HMFA	741	801	1082	1594	1860	Yolo
Yuba City, CA MSA	526	634	812	1173	1389	Sutter, Yuba

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alpine	664	674	912	1136	1472
Calaveras	672	732	923	1360	1635
Del Norte	628	633	856	1261	1377
Humboldt	657	722	973	1434	1668
Lake	645	650	879	1295	1309
Mariposa	605	614	831	1035	1341
Modoc	456	528	626	922	1101
Nevada	775	780	1034	1524	1762
Sierra	601	611	826	1217	1333
Tehama	491	611	826	1165	1336
Tuolumne	613	744	1007	1484	1489

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Amador	644	800	1082	1436	1747
Colusa	562	566	766	1129	1357
Glenn	570	574	776	1119	1374
Inyo	675	703	836	1232	1481
Lassen	700	740	1001	1400	1405
Mendocino	700	749	989	1363	1647
Mono	888	1015	1203	1498	1942
Plumas	565	702	950	1183	1562
Siskiyou	528	629	803	1171	1318
Trinity	581	585	782	1152	1385

COLORADO

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boulder, CO MSA	743	863	1068	1574	1870	Boulder
Colorado Springs, CO HMFA	504	626	813	1198	1440	El Paso
Denver-Aurora-Broomfield, CO MSA	588	726	940	1379	1599	Adams, Arapahoe, Broomfield, Clear Creek, Denver, Douglas, Elbert, Gilpin, Jefferson, Park
Fort Collins-Loveland, CO MSA	559	692	833	1227	1475	Larimer
Grand Junction, CO MSA	528	629	837	1233	1417	Mesa
Greeley, CO MSA	479	560	720	1056	1275	Weld
Pueblo, CO MSA	420	509	666	953	1028	Pueblo
Teller County, CO HMFA	552	712	890	1285	1289	Teller

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

COLORADO continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alamosa	535	557	662	824	885
Baca	506	528	626	922	961
Chaffee	498	501	678	999	1165
Conejos	506	528	626	780	837
Crowley	460	463	626	783	1109
Delta	557	561	759	945	1308
Eagle	936	942	1275	1650	2097
Garfield	795	800	1083	1354	1918
Gunnison	567	642	869	1082	1454
Huerfano	607	611	827	1030	1105
Kiowa	479	482	626	780	900
Lake	674	730	987	1229	1515
Las Animas	524	528	714	993	997
Logan	398	494	669	833	988
Moffat	573	577	734	1082	1085
Montrose	485	562	760	1073	1346
Otero	386	480	649	808	867
Phillips	502	506	675	841	902
Prowers	460	463	626	783	852
Rio Grande	506	528	626	831	1109
Saguache	506	528	626	795	1109
San Miguel	672	869	1063	1545	1838
Summit	739	1003	1242	1631	2074
Yuma	460	463	626	827	974

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Archuleta	573	576	748	978	1000
Bent	460	463	626	780	961
Cheyenne	460	463	626	858	961
Costilla	506	528	626	922	926
Custer	529	532	720	937	1105
Dolores	506	528	626	922	961
Fremont	554	571	686	986	1063
Grand	666	670	907	1270	1275
Hinsdale	525	529	686	940	1053
Jackson	550	553	718	894	1102
Kit Carson	460	463	626	780	1104
La Plata	702	749	931	1262	1622
Lincoln	553	556	710	884	1090
Mineral	739	744	966	1203	1483
Montezuma	506	528	626	922	1109
Morgan	543	546	712	921	1011
Ouray	744	749	1013	1493	1640
Pitkin	787	977	1322	1751	1767
Rio Blanco	481	484	655	965	1013
Routt	664	894	1102	1508	1514
San Juan	527	604	817	1204	1254
Sedgwick	506	528	626	891	894
Washington	460	463	626	780	845

CONNECTICUT

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Bridgeport, CT HMFA	770	967	1230	1609	1743	Fairfield County towns of Bridgeport town, Easton town, Fairfield town, Monroe town, Shelton town, Stratford town, Trumbull town
Colchester-Lebanon, CT HMFA	792	865	1170	1457	1695	New London County towns of Colchester town, Lebanon town
Danbury, CT HMFA	897	1023	1384	1725	2183	Fairfield County towns of Bethel town, Brookfield town, Danbury town, New Fairfield town, Newtown town, Redding town, Ridgefield town, Sherman town
*Hartford-West Hartford-East Hartford, CT HMFA	704	883	1101	1371	1593	Hartford County towns of Avon town, Berlin town, Bloomfield town, Bristol town, Burlington town, Canton town, East Granby town, East Hartford town, East Windsor town, Enfield town, Farmington town, Glastonbury town, Granby town, Hartford town, Hartland town, Manchester town, Marlborough town, New Britain town, Newington town, Plainville town, Rocky Hill town, Simsbury town, Southington town, South Windsor town, Suffield town, West Hartford town, Wethersfield town, Windsor town, Windsor Locks town

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

CONNECTICUT continued METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Milford-Ansonia-Seymour, CT HMFA	993	1047	1294	1638	1825	Middlesex County towns of Chester town, Cromwell town, Durham town, East Haddam town, East Hampton town, Haddam town, Middlefield town, Middletown town, Portland town Tolland County towns of Andover town, Bolton town, Columbia town, Coventry town, Ellington town, Hebron town, Mansfield town, Somers town, Stafford town, Tolland town, Union town, Vernon town, Willington town New Haven County towns of Ansonia town, Beacon Falls town, Derby town, Milford town, Oxford town, Seymour town
*New Haven-Meriden, CT HMFA	874	1055	1316	1639	1818	New Haven County towns of Bethany town, Branford town, Cheshire town, East Haven town, Guilford town, Hamden town, Madison town, Meriden town, New Haven town, North Branford town, North Haven town, Orange town, Wallingford town, West Haven town, Woodbridge town
Norwich-New London, CT HMFA	737	829	1088	1393	1606	New London County towns of Bozrah town, East Lyme town, Franklin town, Griswold town, Groton town, Ledyard town, Lisbon town, Lyme town, Montville town, New London town, North Stonington town, Norwich town, Old Lyme town, Preston town, Salem town, Sprague town, Stonington town, Voluntown town, Waterford town
Southern Middlesex County, CT HMFA	881	887	1200	1670	1676	Middlesex County towns of Clinton town, Deep River town, Essex town, Killingworth town, Old Saybrook town, Westbrook town
Stamford-Norwalk, CT HMFA	1095	1327	1648	2052	2553	Fairfield County towns of Darien town, Greenwich town, New Canaan town, Norwalk town, Stamford town, Weston town, Westport town, Wilton town
Waterbury, CT HMFA	572	772	942	1173	1275	New Haven County towns of Middlebury town, Naugatuck town, Prospect town, Southbury town, Waterbury town, Wolcott town
NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
Litchfield County, CT	817	830	1066	1350	1602	Barkhamsted town, Bethlehem town, Bridgewater town, Canaan town, Colebrook town, Cornwall town, Goshen town, Harwinton town, Kent town, Litchfield town, Morris town, New Hartford town, New Milford town, Norfolk town, North Canaan town, Plymouth town, Roxbury town, Salisbury town, Sharon town, Thomaston town, Torrington town, Warren town, Washington town, Watertown town, Winchester town, Woodbury town
Windham County, CT	565	709	950	1183	1324	Ashford town, Brooklyn town, Canterbury town, Chaplin town, Eastford town, Hampton town, Killingly town, Plainfield town, Pomfret town, Putnam town, Scotland town, Sterling town, Thompson town, Windham town, Woodstock town

DELAWARE METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Dover, DE MSA	653	835	990	1386	1749	Kent

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

DELAWARE continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
*Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA..	788	929	1119	1394	1496	New Castle

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Sussex	708	724	979	1336	1556

DISTRICT OF COLUMBIA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Washington-Arlington-Alexandria, DC-VA-MD HMFA	1130	1191	1412	1890	2374	District of Columbia

FLORIDA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Baker County, FL HMFA	501	627	743	992	1080	Baker
Cape Coral-Fort Myers, FL MSA	718	722	915	1242	1278	Lee
Crestview-Fort Walton Beach-Destin, FL MSA	717	721	902	1329	1554	Okaloosa
Deltona-Daytona Beach-Ormond Beach, FL MSA	562	723	890	1216	1309	Volusia
*Fort Lauderdale, FL HMFA	748	973	1236	1763	2189	Broward
Gainesville, FL MSA	731	751	954	1275	1658	Alachua, Gilchrist
Jacksonville, FL HMFA	614	757	910	1200	1468	Clay, Duval, Nassau, St. Johns
Lakeland-Winter Haven, FL MSA	615	619	801	1086	1322	Polk
Miami-Miami Beach-Kendall, FL HMFA	719	876	1122	1539	1799	Miami-Dade
Naples-Marco Island, FL MSA	724	833	1038	1356	1669	Collier
*North Port-Bradenton-Sarasota, FL MSA	722	803	1027	1376	1616	Manatee, Sarasota
Ocala, FL MSA	518	642	805	1085	1089	Marion
Orlando-Kissimmee-Sanford, FL MSA	697	825	983	1311	1586	Lake, Orange, Osceola, Seminole
Palm Bay-Melbourne-Titusville, FL MSA	540	706	874	1210	1439	Brevard
Palm Coast, FL MSA	708	793	1035	1348	1479	Flagler
Panama City-Lynn Haven-Panama City Beach, FL MSA	729	776	920	1253	1583	Bay
Pensacola-Ferry Pass-Brent, FL MSA	574	655	776	1046	1357	Escambia, Santa Rosa
Port St. Lucie, FL MSA	685	759	940	1292	1523	Martin, St. Lucie
Punta Gorda, FL MSA	512	675	861	1223	1227	Charlotte
Sebastian-Vero Beach, FL MSA	565	700	872	1173	1177	Indian River
Tallahassee, FL HMFA	717	762	920	1179	1604	Gadsden, Jefferson, Leon
Tampa-St. Petersburg-Clearwater, FL MSA	582	730	915	1221	1462	Hernando, Hillsborough, Pasco, Pinellas
Wakulla County, FL HMFA	567	571	772	1041	1367	Wakulla
*West Palm Beach-Boca Raton, FL HMFA	738	947	1183	1597	1907	Palm Beach

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Bradford	506	528	626	922	926
Citrus	594	598	762	1009	1257
DeSoto	574	600	711	970	974
Franklin	548	573	679	1001	1004
Gulf	532	556	659	971	974
Hardee	662	675	820	1021	1096

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Calhoun	506	519	626	780	881
Columbia	403	519	626	922	1109
Dixie	506	528	626	914	917
Glades	577	581	752	976	1059
Hamilton	506	519	626	780	915
Hendry	548	552	747	985	1135

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

FLORIDA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Highlands	554	557	704	1037	1041
Jackson	506	524	626	780	973
Levy	506	517	626	872	1109
Madison	506	519	626	922	1037
Okeechobee	653	657	889	1107	1188
Sumter	555	579	687	1012	1084
Taylor	506	528	626	922	997
Walton	615	619	838	1110	1120
Holmes	506	528	626	858	881
Lafayette	507	521	628	782	884
Liberty	506	519	626	922	926
Monroe	1126	1134	1534	2001	2050
Putnam	504	507	626	780	837
Suwannee	375	466	630	905	908
Union	460	463	626	812	837
Washington	462	465	629	834	886

GEORGIA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albany, GA MSA	504	571	688	952	977	Baker, Dougherty, Lee, Terrell, Worth
Athens-Clarke County, GA MSA	577	635	776	1052	1185	Clarke, Madison, Oconee, Oglethorpe
Atlanta-Sandy Springs-Marietta, GA HMFA	676	737	874	1158	1406	Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, Dawson, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Heard, Henry, Jasper, Newton, Paulding, Pickens, Pike, Rockdale, Spalding, Walton
Augusta-Richmond County, GA-SC MSA	549	619	738	1004	1243	Burke, Columbia, McDuffie, Richmond
Brunswick, GA MSA	509	512	693	863	970	Brantley, Glynn, McIntosh
Butts County, GA HMFA	545	548	742	955	992	Butts
Chattanooga, TN-GA MSA	484	584	727	989	1114	Catoosa, Dade, Walker
Columbus, GA-AL MSA	530	621	736	1014	1304	Chattahoochee, Harris, Marion, Muscogee
Dalton, GA HMFA	472	511	623	800	997	Whitfield
Gainesville, GA MSA	625	629	796	1033	1064	Hall
Haralson County, GA HMFA	440	443	599	842	964	Haralson
Hinesville-Fort Stewart, GA HMFA	654	681	850	1200	1491	Liberty
Lamar County, GA HMFA	463	505	599	883	978	Lamar
Long County, GA HMFA	538	560	699	956	1238	Long
Macon, GA MSA	472	568	673	929	1016	Bibb, Crawford, Jones, Twiggs
Meriwether County, GA HMFA	498	543	644	825	861	Meriwether
Monroe County, GA HMFA	420	505	599	883	1061	Monroe
Murray County, GA HMFA	448	451	608	766	1067	Murray
Rome, GA MSA	576	580	785	978	1389	Floyd
Savannah, GA MSA	598	734	870	1161	1376	Bryan, Chatham, Effingham
Valdosta, GA MSA	576	579	720	923	1098	Brooks, Echols, Lanier, Lowndes
Warner Robins, GA MSA	640	659	813	1043	1246	Houston

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Appling	484	505	599	746	875
Bacon	463	466	599	746	801
Banks	488	509	604	830	997
Berrien	440	443	599	746	1048
Bulloch	422	476	606	877	1066
Camden	561	565	764	1061	1218
Charlton	445	448	606	842	918
Atkinson	356	443	599	746	801
Baldwin	461	531	674	874	901
Ben Hill	484	488	648	807	866
Bleckley	440	443	599	883	907
Calhoun	440	443	599	746	907
Candler	440	443	599	746	904
Chattooga	440	443	599	805	1061

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

GEORGIA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Clay	471	473	599	746	907
Coffee	447	450	599	872	1053
Cook	484	505	599	883	886
Decatur	484	505	599	775	801
Dooly	484	505	599	883	938
Elbert	484	489	599	883	907
Evans	483	486	599	754	801
Franklin	440	443	599	822	1061
Glascock	484	487	659	821	881
Grady	449	452	611	762	904
Habersham	484	505	599	883	1061
Hart	440	443	599	844	1061
Jackson	545	548	742	924	1057
Jefferson	484	490	599	746	801
Johnson	440	443	599	746	832
Lincoln	440	443	599	883	1061
Macon	484	505	599	746	980
Mitchell	479	483	653	813	873
Morgan	520	543	644	949	1101
Pierce	447	450	599	746	1061
Pulaski	440	443	599	883	907
Quitman	484	505	599	883	907
Randolph	440	443	599	791	907
Screven	440	443	599	796	801
Stephens	463	466	630	869	1116
Sumter	490	502	607	829	832
Taliaferro	463	466	599	746	907
Taylor	356	466	599	863	907
Thomas	482	485	650	907	910
Toombs	459	462	599	778	835
Treutlen	463	466	599	746	801
Turner	443	446	599	746	1061
Upson	484	505	599	883	1061
Warren	484	490	599	883	886
Wayne	440	443	599	749	801
Wheeler	463	466	599	864	1017
Wilcox	440	443	599	746	1029
Wilkinson	440	443	599	746	907

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Clinch	440	443	599	864	907
Colquitt	443	446	599	883	886
Crisp	452	455	599	746	991
Dodge	484	505	599	883	1061
Early	451	454	599	883	1007
Emanuel	440	443	599	834	943
Fannin	440	443	599	753	1061
Gilmer	511	514	672	837	1190
Gordon	520	523	679	916	1132
Greene	440	443	599	835	892
Hancock	545	548	742	924	992
Irwin	445	448	606	755	810
Jeff Davis	484	505	599	816	819
Jenkins	463	466	599	845	927
Laurens	484	505	599	829	832
Lumpkin	565	569	770	1038	1042
Miller	440	443	599	859	883
Montgomery	484	505	599	746	907
Peach	383	475	643	876	879
Polk	487	491	664	862	971
Putnam	515	531	638	938	941
Rabun	425	590	714	920	954
Schley	440	443	599	835	1061
Seminole	484	505	599	822	825
Stewart	484	505	599	833	907
Talbot	463	466	631	786	956
Tattnall	484	505	599	829	842
Telfair	440	443	599	746	854
Tift	485	490	630	798	1034
Towns	509	513	659	821	946
Troup	601	617	744	1016	1020
Union	484	487	659	855	881
Ware	399	446	604	752	807
Washington	484	505	599	782	1061
Webster	463	466	599	746	907
White	549	553	748	1028	1133
Wilkes	451	454	599	883	1061

HAWAII

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
*Honolulu, HI MSA	1276	1392	1833	2701	3100	Honolulu

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

HAWAII continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Hawaii	680	857	1044	1407	1762
Kauai	1235	1245	1685	2293	2716
Kalawao	871	969	1213	1607	1837
Maui	905	1018	1315	1812	1819

IDAHO

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boise City-Nampa, ID HMFA	431	576	724	1067	1186	Ada, Boise, Canyon, Owyhee
Coeur d'Alene, ID MSA	480	572	724	1031	1270	Kootenai
Gem County, ID HMFA	375	466	631	930	1118	Gem
Idaho Falls, ID MSA	420	496	671	946	1188	Bonneville, Jefferson
Lewiston, ID-WA MSA	402	509	657	850	1164	Nez Perce
Logan, UT-ID MSA	473	476	631	908	1108	Franklin
Pocatello, ID MSA	372	469	626	922	1109	Bannock, Power

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	460	463	626	922	1094
Benewah	501	528	626	840	1109
Blaine	694	699	921	1285	1354
Boundary	460	463	626	780	1094
Camas	496	499	633	875	1106
Cassia	372	464	626	922	1109
Clearwater	501	528	626	862	1094
Elmore	470	473	640	915	1134
Gooding	485	488	626	881	1109
Jerome	412	481	626	913	932
Lemhi	501	528	626	922	1094
Lincoln	501	528	626	850	1109
Minidoka	501	528	626	922	985
Payette	460	463	626	878	1057
Teton	573	603	715	962	1266
Valley	484	585	694	1023	1229
Bear Lake	464	467	632	931	1104
Bingham	501	523	626	922	926
Bonner	467	564	669	975	1185
Butte	476	479	626	909	1094
Caribou	490	494	626	876	1094
Clark	490	494	626	922	1094
Custer	493	496	671	922	1173
Fremont	514	517	700	872	940
Idaho	475	478	626	877	1109
Latah	513	516	661	974	1171
Lewis	506	512	626	922	926
Madison	488	491	631	930	1118
Oneida	501	528	626	900	1068
Shoshone	457	510	626	806	890
Twin Falls	459	504	655	860	1117
Washington	460	463	626	922	1094

ILLINOIS

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bloomington-Normal, IL MSA	509	552	726	1022	1234	McLean
Bond County, IL HMFA	452	511	691	861	923	Bond
Cape Girardeau-Jackson, MO-IL MSA	428	532	720	934	1138	Alexander
Champaign-Urbana, IL MSA	514	645	785	1012	1363	Champaign, Ford, Piatt
Chicago-Joliet-Naperville, IL HMFA	717	815	966	1231	1436	Cook, DuPage, Kane, Lake, McHenry, Will
Danville, IL MSA	460	503	629	798	841	Vermilion
Davenport-Moline-Rock Island, IA-IL MSA	448	555	711	959	1009	Henry, Mercer, Rock Island
DeKalb County, IL HMFA	527	623	807	1145	1334	DeKalb
Decatur, IL MSA	381	486	634	882	967	Macon

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

ILLINOIS continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Grundy County, IL HMFA	546	678	917	1342	1346	Grundy
Kankakee-Bradley, IL MSA	458	581	767	1079	1302	Kankakee
Kendall County, IL HMFA	728	918	1223	1802	1885	Kendall
Macoupin County, IL HMFA	409	474	626	910	995	Macoupin
Peoria, IL MSA	421	552	708	915	1099	Marshall, Peoria, Stark, Tazewell, Woodford
Rockford, IL MSA	466	533	717	978	1111	Boone, Winnebago
Springfield, IL MSA	442	546	695	909	958	Menard, Sangamon
St. Louis, MO-IL HMFA	543	643	830	1081	1227	Calhoun, Clinton, Jersey, Madison, Monroe, St. Clair

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	372	463	626	861	1006
Bureau	378	477	635	877	880
Cass	482	486	657	818	927
Clark	457	509	688	857	919
Coles	479	483	653	962	1012
Cumberland	415	528	626	848	851
Douglas	435	484	655	816	899
Edwards	415	503	626	780	919
Fayette	474	511	626	780	948
Fulton	483	487	626	801	1056
Greene	415	528	626	780	1109
Hancock	372	502	626	780	837
Henderson	415	517	626	781	837
Jackson	412	496	671	888	996
Jefferson	477	497	626	844	1088
Johnson	415	528	626	780	974
La Salle	433	537	727	994	997
Lee	485	488	626	887	890
Logan	415	463	626	871	874
Marion	415	477	626	891	894
Massac	415	463	626	780	1109
Morgan	374	464	628	782	839
Ogle	465	517	670	954	1121
Pike	459	528	626	820	1094
Pulaski	415	528	626	780	837
Randolph	415	466	626	844	957
Saline	460	463	626	901	1035
Scott	415	476	626	868	1038
Stephenson	421	469	635	791	978
Wabash	415	463	626	780	892
Washington	415	470	626	809	919
White	413	528	626	784	857
Williamson	496	499	675	953	1196

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Brown	372	463	626	780	919
Carroll	415	463	626	780	837
Christian	466	469	635	791	1010
Clay	415	528	626	780	919
Crawford	415	528	626	909	912
De Witt	415	463	626	820	999
Edgar	463	466	626	861	1109
Effingham	460	463	626	922	1076
Franklin	372	463	626	780	1043
Gallatin	415	528	626	922	926
Hamilton	415	528	626	780	919
Hardin	415	463	626	780	919
Iroquois	475	478	642	887	1023
Jasper	415	528	626	922	1059
Jo Daviess	415	528	626	831	837
Knox	372	463	626	780	1109
Lawrence	506	528	626	922	926
Livingston	454	484	644	871	874
McDonough	424	527	713	894	1072
Mason	415	463	626	780	1023
Montgomery	415	528	626	780	1035
Moultrie	415	528	626	878	914
Perry	460	463	626	787	1057
Pope	415	528	626	922	926
Putnam	415	528	626	780	837
Richland	415	463	626	893	897
Schuyler	415	528	626	922	926
Shelby	419	466	631	786	935
Union	415	463	626	827	837
Warren	447	504	673	986	989
Wayne	415	528	626.	849	919
Whiteside	482	519	664	827	918

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

INDIANA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anderson, IN MSA	409	497	673	898	979	Madison
Bloomington, IN HMFA	548	598	747	1042	1323	Monroe
Carroll County, IN HMFA	500	522	619	885	888	Carroll
Cincinnati-Middleton, OH-KY-IN HMFA	445	557	740	1025	1129	Dearborn, Franklin, Ohio
Columbus, IN MSA	536	587	730	960	990	Bartholomew
Elkhart-Goshen, IN MSA	446	553	721	934	1098	Elkhart
Evansville, IN-KY HMFA	544	583	754	960	1049	Posey, Vanderburgh, Warrick
Fort Wayne, IN MSA	461	506	646	831	942	Allen, Wells, Whitley
Gary, IN HMFA	471	636	792	992	1058	Lake, Newton, Porter
Gibson County, IN HMFA	469	492	650	870	874	Gibson
Greene County, IN HMFA	368	458	619	771	931	Greene
Indianapolis, IN HMFA	499	615	765	1020	1190	Boone, Brown, Hamilton, Hancock, Hendricks, Johnson, Marion, Morgan, Shelby
Jasper County, IN HMFA	512	516	698	869	933	Jasper
Kokomo, IN MSA	466	483	654	876	957	Howard, Tipton
Lafayette, IN HMFA	519	594	749	980	1232	Benton, Tippecanoe
Louisville, KY-IN HMFA	503	588	731	1012	1144	Clark, Floyd, Harrison
Michigan City-La Porte, IN MSA	483	560	758	1004	1013	LaPorte
Muncie, IN MSA	442	493	635	833	1125	Delaware
Owen County, IN HMFA	449	481	619	793	1096	Owen
Putnam County, IN HMFA	518	526	641	945	1085	Putnam
South Bend-Mishawaka, IN HMFA	490	558	714	895	954	St. Joseph
Sullivan County, IN HMFA	500	522	619	909	912	Sullivan
Terre Haute, IN HMFA	412	511	692	862	1011	Clay, Vermillion, Vigo
Washington County, IN HMFA	426	503	619	871	874	Washington

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	404	489	619	820	1007
Cass	404	458	619	771	1094
Crawford	404	458	619	771	879
Decatur	381	473	640	809	855
Dubois	404	466	619	912	923
Fountain	404	522	619	875	879
Grant	385	459	619	818	898
Huntington	391	473	630	808	842
Jay	404	477	619	861	908
Jennings	384	483	646	834	925
Kosciusko	425	486	651	842	962
Lawrence	368	478	619	820	885
Martin	404	522	619	912	962
Montgomery	405	488	659	923	940
Orange	404	458	619	844	1050
Perry	404	466	619	878	894
Pulaski	368	460	619	804	827
Ripley	411	511	691	861	991
Scott	431	489	661	907	1006

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Blackford	404	458	619	771	1094
Clinton	400	497	672	857	965
Daviess	404	458	619	889	892
DeKalb	394	476	619	881	1037
Fayette	432	467	625	800	835
Fulton	427	523	654	815	874
Henry	469	473	634	807	874
Jackson	423	526	711	948	1095
Jefferson	372	485	626	855	892
Knox	462	468	619	773	872
LaGrange	411	511	691	861	946
Marshall	420	478	644	802	861
Miami	368	522	619	857	1008
Noble	397	482	633	788	1086
Parke	404	458	619	841	1096
Pike	404	522	619	912	1029
Randolph	404	477	619	862	1014
Rush	404	458	619	795	827
Spencer	368	458	619	771	827

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

INDIANA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Starke	432	522	619	805	827
Switzerland	404	458	619	912	961
Wabash	408	463	626	780	837
Wayne	465	485	619	817	920

IOWA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Ames, IA MSA	493	578	720	1019	1191	Story
Benton County, IA HMFA	430	478	591	767	942	Benton
Bremer County, IA HMFA	417	449	607	830	833	Bremer
Cedar Rapids, IA HMFA	431	536	725	982	1093	Linn
Davenport-Moline-Rock Island, IA-IL MSA	448	555	711	959	1009	Scott
Des Moines-West Des Moines, IA MSA	503	605	750	1044	1112	Dallas, Guthrie, Madison, Polk, Warren
Dubuque, IA MSA	397	491	637	854	992	Dubuque
Iowa City, IA HMFA	559	670	853	1257	1511	Johnson
Jones County, IA HMFA	368	457	618	851	966	Jones
Omaha-Council Bluffs, NE-IA HMFA	493	659	828	1110	1233	Harrison, Mills, Pottawattamie
Sioux City, IA-NE-SD MSA	391	511	657	863	969	Woodbury
Washington County, IA HMFA	423	505	636	937	1070	Washington
Waterloo-Cedar Falls, IA HMFA	436	506	635	844	1125	Black Hawk, Grundy

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adair	394	429	581	810	813
Allamakee	383	477	565	833	864
Audubon	383	455	565	704	933
Buchanan	428	431	573	742	930
Butler	383	477	565	833	862
Carroll	447	449	565	704	807
Cedar	418	456	617	799	870
Cherokee	383	424	565	704	755
Clarke	385	421	569	709	1008
Clayton	400	477	565	796	913
Crawford	383	477	565	729	1001
Decatur	421	443	565	833	1001
Des Moines	487	490	663	826	892
Emmet	402	471	594	751	820
Floyd	383	437	565	796	799
Fremont	383	458	565	786	862
Hamilton	420	458	620	772	1013
Hardin	383	435	565	706	755
Howard	383	418	565	704	755
Ida	383	428	565	750	755
Jackson	383	477	565	833	835

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Steuben	437	497	670	834	935
Union	404	522	619	912	1096
Warren	404	522	619	843	846
White	407	526	624	848	851

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	410	447	605	753	836
Appanoose	415	418	565	716	755
Boone	371	460	623	817	968
Buena Vista	402	468	594	748	864
Calhoun	383	433	565	765	768
Cass	377	462	565	765	813
Cerro Gordo	380	472	639	835	854
Chickasaw	383	459	565	833	835
Clay	383	418	565	763	916
Clinton	363	468	586	743	932
Davis	383	454	566	705	782
Delaware	456	463	565	822	842
Dickinson	383	418	565	795	801
Fayette	352	475	565	726	764
Franklin	415	418	565	789	966
Greene	383	418	565	704	1001
Hancock	384	419	567	706	825
Henry	388	461	572	793	796
Humboldt	383	418	565	797	800
Iowa	383	445	565	833	970
Jasper	364	467	611	776	857

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

IOWA continued

NONMETROPQLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Jefferson	442	487	652	812	871
Kossuth	383	418	565	751	791
Louisa	415	458	612	762	945
Lyon	383	471	565	704	967
Marion	521	530	645	803	1142
Mitchell	383	477	565	833	835
Monroe	383	418	565	704	780
Muscatine	434	473	640	878	948
Osceola	383	461	565	704	755
Palo Alto	383	475	565	833	1001
Pocahontas	383	438	565	704	1001
Ringgold	383	458	565	709	857
Shelby	383	436	565	732	849
Tama	390	426	576	721	841
Union	388	426	572	767	933
Wapello	419	495	649	829	867
Webster	455	458	565	803	838
Winneshiek	415	418	565	739	1001
Wright	383	445	565	704	755

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Keokuk	383	429	565	786	789
Lee	394	429	581	797	800
Lucas	383	418	565	743	949
Mahaska	442	445	573	733	881
Marshall	413	479	589	760	837
Monona	383	418	565	755	757
Montgomery	415	418	565	822	825
O'Brien	419	460	565	818	821
Page	383	441	565	769	772
Plymouth	405	475	598	828	831
Poweshiek	414	489	611	803	851
Sac	338	423	565	731	755
Sioux	383	446	565	775	778
Taylor	383	477	565	833	835
Van Buren	383	477	565	794	796
Wayne	383	418	565	833	835
Winnebago	383	449	565	833	864
Worth	374	477	565	716	755

KANSAS

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Franklin County, KS HMFA	449	557	753	938	1198	Franklin
Kansas City, MO-KS HMFA	491	632	783	1073	1195	Johnson, Leavenworth, Linn, Miami, Wyandotte
Lawrence, KS MSA	526	664	860	1259	1384	Douglas
Manhattan, KS MSA	627	631	830	1196	1470	Geary, Pottawatomie, Riley
St. Joseph, MO-KS MSA	438	474	633	811	1000	Doniphan
Sumner County, KS HMFA	448	451	610	812	1080	Sumner
Topeka, KS MSA	412	522	692	978	1187	Jackson, Jefferson, Osage, Shawnee, Wabaunsee
Wichita, KS HMFA	428	529	704	971	1070	Butler, Harvey, Sedgwick

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Allen	375	487	577	795	798
Atchison	343	432	577	850	853
Barton	466	486	577	762	992
Brown	375	426	577	791	793
Chautauqua	375	487	577	809	839
Cheyenne	375	426	577	719	771
Clay	504	508	687	856	918
Coffey	375	426	577	780	783
Cowley	385	452	592	791	794
Decatur	375	429	577	719	839

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Anderson	375	433	577	850	1022
Barber	375	426	577	758	839
Bourbon	388	447	605	753	983
Chase	375	431	577	819	822
Cherokee	375	426	577	783	928
Clark	375	476	577	751	1022
Cloud	375	440	577	850	853
Comanche	375	487	577	751	839
Crawford	391	467	602	887	1054
Dickinson	375	440	577	797	1022

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

KANSAS continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Edwards	375	426	577	719	965
Ellis	452	469	635	886	957
Finney	400	480	615	777	1042
Gove	375	487	577	732	839
Grant	375	429	577	830	839
Greeley	375	429	577	719	788
Hamilton	431	494	664	827	966
Haskell	398	453	613	763	958
Jewell	375	487	577	787	824
Kingman	375	487	577	719	979
Labette	375	426	577	719	771
Lincoln	375	471	577	719	771
Lyon	359	446	604	817	820
Marion	375	426	577	719	771
Meade	375	426	577	719	771
Montgomery	460	463	577	777	909
Morton	375	446	577	719	771
Neosho	375	426	577	765	771
Norton	375	487	577	825	839
Ottawa	375	477	577	850	1022
Phillips	375	448	577	841	969
Rawlins	375	426	577	719	839
Republic	375	426	577	719	771
Rooks	375	482	577	719	771
Russell	375	426	577	753	863
Scott	375	429	577	850	853
Sheridan	378	430	582	725	778
Smith	375	460	577	850	853
Stanton	375	429	577	779	821
Thomas	375	487	577	828	1022
Wallace	375	429	577	719	839
Wichita	396	460	610	760	887
Woodson	375	426	577	850	853

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Elk	375	487	577	850	853
Ellsworth	375	449	577	740	839
Ford	473	507	630	803	970
Graham	375	487	577	850	853
Gray	375	471	577	773	776
Greenwood	375	454	577	805	938
Harper	375	437	577	850	1015
Hodgeman	375	426	577	719	839
Kearny	375	429	577	830	839
Kiowa	375	487	577	850	853
Lane	423	484	651	811	947
Logan	375	426	577	719	771
McPherson	404	460	622	775	831
Marshall	447	450	577	769	950
Mitchell	375	487	577	850	876
Morris	375	465	577	724	839
Nemaha	375	450	577	850	853
Ness	375	487	577	719	900
Osborne	375	487	577	842	845
Pawnee	409	465	629	783	841
Pratt	408	464	628	782	839
Reno	402	452	612	860	916
Rice	375	439	577	781	882
Rush	375	487	577	778	839
Saline	484	493	630	815	962
Seward	435	549	669	843	992
Sherman	375	429	577	769	1022
Stafford	375	439	577	719	771
Stevens	472	537	727	905	1057
Trego	507	577	780	1149	1153
Washington	424	426	577	719	771
Wilson	375	426	577	783	1022

KENTUCKY

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bowling Green, KY MSA	496	511	675	858	1037	Edmonson, Warren
Cincinnati-Middleton, OH-KY-IN HMFA	445	557	740	1025	1129	Boone, Bracken, Campbell, Gallatin, Kenton, Pendleton
Clarksville, TN-KY HMFA	473	540	704	933	1011	Christian, Trigg
Elizabethtown, KY MSA	486	489	645	950	1142	Hardin, Larue
Evansville, IN-KY HMFA	544	583	754	960	1049	Henderson, Webster
Grant County, KY HMFA	425	522	706	879	943	Grant

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

KENTUCKY continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Huntington-Ashland, WV-KY-OH MSA	373	510	627	828	1017	Boyd, Greenup
Lexington-Fayette, KY MSA	458	535	700	997	1116	Bourbon, Clark, Fayette, Jessamine, Scott, Woodford
Louisville, KY-IN HMFA	503	588	731	1012	1144	Bullitt, Henry, Jefferson, Oldham, Spencer, Trimble
Meade County, KY HMFA	451	485	656	930	933	Meade
Nelson County, KY HMFA	421	486	613	903	920	Nelson
Owensboro, KY MSA	458	475	643	832	915	Daviess, Hancock, McLean
Shelby County, KY HMFA	518	522	706	948	1114	Shelby

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adair	407	410	555	818	821
Anderson	557	560	704	877	1020
Barren	422	425	575	806	909
Bell	342	445	555	779	782
Breathitt	417	468	555	691	771
Butler	417	468	555	818	983
Calloway	457	514	618	882	886
Carroll	435	488	579	853	977
Casey	407	410	555	756	778
Clinton	366	440	555	782	983
Cumberland	417	447	555	818	821
Estill	417	434	555	691	941
Floyd	417	463	555	700	983
Fulton	417	468	555	818	821
Graves	458	461	610	760	896
Green	417	468	555	762	764
Harrison	359	446	603	751	910
Hickman	417	440	555	691	742
Jackson	461	517	613	784	859
Knott	407	410	555	790	793
Laurel	419	471	558	738	988
Lee	417	468	555	816	818
Letcher	417	453	555	691	742
Lincoln	407	410	555	721	754
Logan	465	473	628	782	839
McCracken	461	464	590	735	788
Madison	471	474	617	874	1093
Marion	457	460	623	776	833
Martin	417	468	555	800	983
Menifee	417	468	555	710	778
Metcalfe	421	424	574	715	805
Montgomery	417	468	555	807	983
Muhlenberg	363	428	555	691	983
Ohio	413	416	555	786	983

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Allen	417	468	555	818	821
Ballard	419	422	571	783	934
Bath	417	467	555	818	821
Boyle	454	458	619	860	1096
Breckinridge	417	452	555	818	821
Caldwell	417	468	555	783	786
Carlisle	421	472	560	697	748
Carter	417	468	555	776	983
Clay	417	468	555	818	983
Crittenden	417	468	555	794	797
Elliott	417	440	555	691	778
Fleming	417	468	555	818	821
Franklin	412	547	670	987	991
Garrard	438	492	583	814	817
Grayson	417	425	555	781	850
Harlan	448	468	555	755	827
Hart	407	410	555	691	742
Hopkins	438	440	555	818	951
Johnson	407	410	555	719	742
Knox	407	410	555	800	802
Lawrence	417	427	555	717	957
Leslie	471	475	642	800	858
Lewis	407	410	555	732	742
Livingston	417	468	555	818	821
Lyon	420	423	572	712	802
McCreary	417	468	555	764	778
Magoffin	407	410	555	691	778
Marshall	429	463	626	803	837
Mason	419	422	571	805	808
Mercer	465	471	619	839	988
Monroe	411	414	555	691	742
Morgan	437	440	555	818	834
Nicholas	408	411	555	796	983
Owen	429	432	585	759	1036

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

KENTUCKY continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Owsley	417	440	555	727	778
Pike	412	415	561	722	750
Pulaski	430	433	558	774	872
Rockcastle	417	424	555	791	831
Russell	340	410	555	735	928
Taylor	370	447	605	753	809
Union	443	454	555	766	778
Wayne	417	431	555	691	778
Wolfe	417	422	555	818	983
Perry	417	468	555	691	742
Powell	407	410	555	794	805
Robertson	557	561	759	945	1064
Rowan	362	466	572	712	897
Simpson	514	517	685	853	960
Todd	434	486	578	836	839
Washington	417	468	555	752	755
Whitley	427	430	582	786	1001

LOUISIANA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Alexandria, LA MSA	531	540	657	891	1022	Grant, Rapides
Baton Rouge, LA HMFA	551	672	801	998	1149	Ascension, East Baton Rouge, East Feliciana, Livingston, Pointe Coupee, St. Helena, West Baton Rouge, West Feliciana
Houma-Bayou Cane-Thibodaux, LA MSA	480	553	748	967	1325	Lafourche, Terrebonne
Iberville Parish, LA HMFA	427	458	620	838	979	Iberville
Lafayette, LA MSA	488	651	772	1013	1252	Lafayette, St. Martin
Lake Charles, LA MSA	563	594	748	997	1221	Calcasieu, Cameron
Monroe, LA MSA	523	527	695	866	929	Ouachita, Union
New Orleans-Metairie-Kenner, LA MSA	637	755	935	1173	1420	Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany
Shreveport-Bossier City, LA MSA	563	631	785	978	1070	Bossier, Caddo, De Soto

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Acadia	478	481	620	833	836
Assumption	494	530	628	925	959
Beauregard	520	534	644	860	1141
Caldwell	487	523	620	914	1038
Claiborne	487	523	620	914	1098
East Carroll	484	487	620	772	1096
Franklin	455	458	620	806	829
Jackson	476	495	620	914	1008
La Salle	464	467	620	855	934
Madison	455	458	620	793	829
Natchitoches	519	542	643	855	870
Richland	455	458	620	845	874
St. James	487	523	620	914	989
St. Mary	488	492	656	921	985
Tensas	455	458	620	772	829
Vernon	510	632	855	1065	1143
Webster	487	501	620	813	829
Winn	487	523	620	833	836
Allen	487	519	620	877	880
Avoyelles	420	458	620	891	1077
Bienville	487	523	620	914	934
Catahoula	487	518	620	914	999
Concordia	455	458	620	914	917
Evangeline	455	458	620	820	842
Iberia	504	507	686	854	917
Jefferson Davis	513	551	653	926	929
Lincoln	567	571	702	974	1243
Morehouse	493	496	663	826	1084
Red River	487	523	620	914	934
Sabine	501	508	620	772	1098
St. Landry	417	458	620	777	829
Tangipahoa	538	691	819	1034	1212
Vermilion	487	523	620	905	1060
Washington	467	470	636	792	1008
West Carroll	455	458	620	888	925

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

MAINE

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Bangor, ME HMFA	585	676	854	1064	1235	Penobscot County towns of Bangor city, Brewer city, Eddington town, Glenburn town, Hampden town, Hermon town, Holden town, Kenduskeag town, Milford town, Old Town city, Orono town, Orrington town, Penobscot Indian Island Reservation, Veazie town
Cumberland County, ME (part) HMFA	527	663	879	1257	1498	Cumberland County towns of Baldwin town, Bridgton town, Brunswick town, Harpswell town, Harrison town, Naples town, New Gloucester town, Pownal town, Sebago town
Lewiston-Auburn, ME MSA	534	632	826	1041	1105	Androscoggin County towns of Auburn city, Durham town, Greene town, Leeds town, Lewiston city, Lisbon town, Livermore town, Livermore Falls town, Mechanic Falls town, Minot town, Poland town, Sabattus town, Turner town, Wales town
Penobscot County, ME (part) HMFA	425	532	631	883	1021	Penobscot County towns of Alton town, Argyle UT, Bradford town, Bradley town, Burlington town, Carmel town, Carroll plantation, Charleston town, Chester town, Clifton town, Corinna town, Corinth town, Dexter town, Dixmont town, Drew plantation, East Central Penobscot UT, East Millinocket town, Edinburg town, Enfield town, Etna town, Exeter town, Garland town, Greenbush town, Howland town, Hudson town, Kingman UT, Lagrange town, Lakeville town, Lee town, Levant town, Lincoln town, Lowell town, Mattawamkeag town, Maxfield town, Medway town, Millinocket town, Mount Chase town, Newburgh town, Newport town, North Penobscot UT, Passadumkeag town, Patten town, Plymouth town, Prentiss UT, Seboeis plantation, Springfield town, Stacyville town, Stetson town, Twombly UT, Webster plantation, Whitney UT, Winn town, Woodville town
Portland, ME HMFA	685	816	1008	1334	1401	Cumberland County towns of Cape Elizabeth town, Casco town, Chebeague Island town Cumberland town, Falmouth town, Freeport town, Frye Island town, Gorham town, Gray town, Long Island town, North Yarmouth town, Portland city, Raymond town, Scarborough town, South Portland city, Standish town, Westbrook city, Windham town, Yarmouth town York County towns of Buxton town, Hollis town, Limington town, Old Orchard Beach town
Sagadahoc County, ME HMFA	654	695	824	1068	1345	Sagadahoc County towns of Arrowsic town, Bath city, Bowdoin town, Bowdoinham town, Georgetown town, Perkins UT, Phippsburg town, Richmond town, Topsham town, West Bath town, Woolwich town
York County, ME (part) HMFA	605	699	886	1203	1245	York County towns of Acton town, Alfred town, Arundel town, Biddeford city, Cornish town, Dayton town, Kennebunk town, Kennebunkport town, Lebanon town, Limerick town, Lyman town, Newfield town, North Berwick town, Ogunquit town, Parsonsfield town, Saco city, Sanford town, Shapleigh town, Waterboro town, Wells town
York-Kittery-South Berwick, ME HMFA	712	779	1025	1383	1388	York County towns of Berwick town, Eliot town, Kittery town, South Berwick town, York town

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

MAINE continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
Aroostook County, ME	511	525	632	800	877	Allagash town, Amity town, Ashland town, Bancroft town, Blaine town, Bridgewater town, Caribou city, Cary plantation, Castle Hill town, Caswell town, Central Aroostook UT, Chapman town, Connor UT, Crystal town, Cyr plantation, Dyer Brook town, Eagle Lake town, Easton town, Fort Fairfield town, Fort Kent town, Frenchville town, Garfield plantation, Glenwood plantation, Grand Isle town, Hamlin town, Hammond town, Haynesville town, Hersey town, Hodgdon town, Houlton town, Island Falls town, Limestone town, Linneus town, Littleton town, Ludlow town, Macwahoc plantation, Madawaska town, Mapleton town, Mars Hill town, Masardis town, Merrill town, Monticello town, Moro plantation, Nashville plantation, New Canada town, New Limerick town, New Sweden town, Northwest Aroostook UT, Oakfield town, Orient town, Oxbow plantation, Penobscot Indian Island Reservation, Perham town, Portage Lake town, Presque Isle city, Reed plantation, St. Agatha town, St. Francis town, St. John plantation, Sherman town, Smyrna town, South Aroostook UT, Square Lake UT, Stockholm town, Van Buren town, Wade town, Wallagrass town, Washburn town, Westfield town, Westmanland town, Weston town, Winterville plantation, Woodland town
Franklin County, ME	561	585	694	865	1229	Avon town, Carrabassett Valley town, Carthage town, Chesterville town, Coplin plantation, Dallas plantation, East Central Franklin UT, Eustis town, Farmington town, Industry town, Jay town, Kingfield town, Madrid town, New Sharon town, New Vineyard town, North Franklin UT, Phillips town, Rangeley town, Rangeley plantation, Sandy River plantation, South Franklin UT, Strong town, Temple town, Weld town, West Central Franklin UT, Wilton town, Wyman UT
Hancock County, ME	591	668	851	1120	1137	Amherst town, Aurora town, Bar Harbor town, Blue Hill town, Brooklin town, Brooksville town, Bucksport town, Castine town, Central Hancock UT, Cranberry Isles town, Dedham town, Deer Isle town, Eastbrook town, East Hancock UT, Ellsworth city, Franklin town, Frenchboro town, Gouldsboro town, Great Pond town, Hancock town, Lamoine town, Mariaville town, Mount Desert town, Northwest Hancock UT, Orland town, Osborn town, Otis town, Penobscot town, Sedgwick town, Sorrento town, Southwest Harbor town, Stonington town, Sullivan town, Surry town, Swans Island town, Tremont town, Trenton town, Verona Island town, Waltham town, Winter Harbor town
Kennebec County, ME	512	593	758	951	1013	Albion town, Augusta city, Belgrade town, Benton town, Chelsea town, China town, Clinton town, Farmingdale town, Fayette town, Gardiner city, Hallowell city, Litchfield town, Manchester town, Monmouth town, Mount Vernon town, Oakland town, Pittston town, Randolph town, Readfield town,

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

MAINE continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
Knox County, ME	705	709	874	1121	1168	Rome town, Sidney town, Unity UT, Vassalboro town, Vienna town, Waterville city, Wayne town, West Gardiner town, Windsor town, Winslow town, Winthrop town Appleton town, Camden town, Criehaven UT, Cushing town, Friendship town, Hope town, Isle au Haut town, Matinicus Isle plantation, North Haven town, Owls Head town, Rockland city, Rockport town, St. George town, South Thomaston town, Thomaston town, Union town, Vinalhaven town, Warren town, Washington town
Lincoln County, ME	543	724	913	1137	1220	Alna town, Boothbay town, Boothbay Harbor town, Bremen town, Bristol town, Damariscotta town, Dresden town, Edgecomb town, Hibberts gore, Jefferson town, Monhegan plantation, Newcastle town, Nobleboro town, Somerville town, South Bristol town, Southport town, Waldoboro town, Westport Island town, Whitefield town, Wiscasset town
Oxford County, ME	548	582	733	989	1281	Andover town, Bethel town, Brownfield town, Buckfield town, Byron town, Canton town, Denmark town, Dixfield town, Fryeburg town, Gilead town, Greenwood town, Hanover town, Hartford town, Hebron town, Hiram town, Lincoln plantation, Lovell town, Magalloway plantation, Mexico town, Milton UT, Newry town, North Oxford UT, Norway town, Otisfield town, Oxford town, Paris town, Peru town, Porter town, Roxbury town, Rumford town, South Oxford UT, Stoneham town, Stow town, Sumner town, Sweden town, Upton town, Waterford town, West Paris town, Woodstock town
Piscataquis County, ME	508	573	679	880	931	Abbot town, Atkinson town, Beaver Cove town, Blanchard UT, Bowerbank town, Brownville town, Dover-Foxcroft town, Greenville town, Guilford town, Kingsbury plantation, Lake View plantation, Medford town, Milo town, Monson town, Northeast Piscataquis UT, Northwest Piscataquis UT, Parkman town, Sangerville town, Sebec town, Shirley town, Southeast Piscataquis UT, Wellington town, Willimantic town
Somerset County, ME	579	606	722	982	986	Anson town, Athens town, Bingham town, Brighton plantation, Cambridge town, Canaan town, Caratunk town, Central Somerset UT, Cornville town, Dennistown plantation, Detroit town, Embden town, Fairfield town, Harmony town, Hartland town, Highland plantation, Jackman town, Madison town, Mercer town, Moose River town, Moscow town, New Portland town, Norridgewock town, Northeast Somerset UT, Northwest Somerset UT, Palmyra town, Pittsfield town, Pleasant Ridge plantation, Ripley town, St. Albans town, Seboomook Lake UT, Skowhegan town, Smithfield town, Solon town, Starks town, The Forks plantation, West Forks plantation
Waldo County, ME	529	634	752	1024	1089	Belfast city, Belmont town, Brooks town, Burnham town, Frankfort town, Freedom town, Islesboro town, Jackson town, Knox town, Liberty town, Lincolnville town, Monroe town, Montville town, Morrill town, Northport town, Palermo town, Prospect town, Searsmont town, Searsport town,

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

MAINE continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
Washington County, ME	521	573	683	871	1056	Stockton Springs town, Swanville town, Thorndike town, Troy town, Unity town, Waldo town, Winterport town Addison town, Alexander town, Baileyville town, Baring plantation, Beals town, Beddington town, Calais city, Centerville town, Charlotte town, Cherryfield town, Codyville plantation, Columbia town, Columbia Falls town, Cooper town, Crawford town, Cutler town, Danforth town, Deblois town, Dennysville town, East Central Washington UT, East Machias town, Eastport city, Grand Lake Stream plantation, Harrington town, Jonesboro town, Jonesport town, Lubec town, Machias town, Machiasport town, Marshfield town, Meddybemps town, Milbridge town, Northfield town, North Washington UT, Passamaquoddy Indian Township Reservation, Passamaquoddy Pleasant Point Reservation, Pembroke town, Perry town, Princeton town, Robbinston town, Roque Bluffs town, Steuben town, Talmadge town, Topsfield town, Vanceboro town, Waite town, Wesley town, Whiting town, Whitneyville town

MARYLAND

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
*Baltimore-Towson, MD HMFA	846	1000	1251	1598	1740	Anne Arundel, Baltimore, Carroll, Harford, Howard, Queen Anne's, Baltimore city
Columbia city, MD HMFA	1056	1318	1569	2010	2205	Columbia city
Cumberland, MD-WV MSA	451	533	632	860	980	Allegany
Hagerstown, MD HMFA	528	642	831	1150	1167	Washington
*Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA	788	929	1119	1394	1496	Cecil
Salisbury, MD HMFA	539	670	906	1166	1286	Wicomico
Somerset County, MD HMFA	426	604	716	900	989	Somerset
Washington-Arlington-Alexandria, DC-VA-MD HMFA	1130	1191	1412	1890	2374	Calvert, Charles, Frederick, Montgomery, Prince George's

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Caroline	752	758	1025	1365	1533
Garrett	543	583	699	889	934
St. Mary's	767	961	1139	1656	2011
Worcester	695	796	1057	1316	1604

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Dorchester	720	754	927	1155	1239
Kent	750	755	1022	1344	1810
Talbot	893	899	1171	1458	2012

MASSACHUSETTS

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Barnstable Town, MA MSA	847	945	1267	1657	1740	Barnstable County towns of Barnstable Town city, Bourne town, Brewster town, Chatham town, Dennis town, Eastham town, Falmouth town, Harwich town, Mashpee town, Orleans town, Provincetown town, Sandwich town, Truro town, Wellfleet town,

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

MASSACHUSETTS continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Berkshire County, MA (part) HMFA	620	648	768	973	1186	Yarmouth town Berkshire County towns of Alford town, Becket town, Clarksburg town, Egremont town, Florida town, Great Barrington town, Hancock town, Monterey town, Mount Washington town, New Ashford town, New Marlborough town, North Adams city, Otis town, Peru town, Sandisfield town, Savoy town, Sheffield town, Tyringham town, Washington town, West Stockbridge town, Williamstown town, Windsor town
Boston-Cambridge-Quincy, MA-NH HMFA	1035	1156	1444	1798	1955	Essex County towns of Amesbury Town city, Beverly city, Danvers town, Essex town, Gloucester city, Hamilton town, Ipswich town, Lynn city, Lynnfield town, Manchester-by-the-Sea town, Marblehead town, Middleton town, Nahant town, Newbury town, Newburyport city, Peabody city, Rockport town, Rowley town, Salem city, Salisbury town, Saugus town, Swampscott town, Topsfield town, Wenham town Middlesex County towns of Acton town, Arlington town, Ashby town, Ashland town, Ayer town, Bedford town, Belmont town, Boxborough town, Burlington town, Cambridge city, Carlisle town, Concord town, Everett city, Framingham town, Holliston town, Hopkinton town, Hudson town, Lexington town, Lincoln town, Littleton town, Malden city, Marlborough city, Maynard town, Medford city, Melrose city, Natick town, Newton city, North Reading town, Reading town, Sherborn town, Shirley town, Somerville city, Stoneham town, Stow town, Sudbury town, Townsend town, Wakefield town, Waltham city, Watertown city, Wayland town, Weston town, Wilmington town, Winchester town, Woburn city Norfolk County towns of Bellingham town, Braintree Town city, Brookline town, Canton town, Cohasset town, Dedham town, Dover town, Foxborough town, Franklin Town city, Holbrook town, Medfield town, Medway town, Millis town, Milton town, Needham town, Norfolk town, Norwood town, Plainville town, Quincy city, Randolph town, Sharon town, Stoughton town, Walpole town, Wellesley town, Westwood town, Weymouth Town city, Wrentham town Plymouth County towns of Carver town, Duxbury town, Hanover town, Hingham town, Hull town, Kingston town, Marshfield town, Norwell town, Pembroke town, Plymouth town, Rockland town, Scituate town, Wareham town Suffolk County towns of Boston city, Chelsea city, Revere city, Winthrop Town city
Brockton, MA HMFA	853	859	1122	1432	1516	Norfolk County towns of Avon town Plymouth County towns of Abington town, Bridgewater town, Brockton city, East Bridgewater town, Halifax town, Hanson town, Lakeville town, Marion town, Mattapoisett town, Middleborough town, Plympton town, Rochester town, West Bridgewater town, Whitman town
Eastern Worcester County, MA HMFA	752	854	1156	1440	1545	Worcester County towns of Berlin town, Blackstone town, Bolton town, Harvard town, Hopedale town, Lancaster town,

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

MASSACHUSETTS continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Mendon town, Milford town, Millville town, Southborough town, Upton town
Easton-Raynham, MA HMFA	900	992	1255	1789	1795	Bristol County towns of Easton town, Raynham town
Fitchburg-Leominster, MA HMFA	550	748	925	1152	1370	Worcester County towns of Ashburnham town, Fitchburg city, Gardner city, Leominster city, Lunenburg town, Templeton town, Westminster town, Winchendon town
Franklin County, MA (part) HMFA	671	724	917	1187	1445	Franklin County towns of Ashfield town, Bernardston town, Buckland town, Charlemont town, Colrain town, Conway town, Deerfield town, Erving town, Gill town, Greenfield Town city, Hawley town, Heath town, Leverett town, Leyden town, Monroe town, Montague town, New Salem town, Northfield town, Orange town, Rowe town, Shelburne town, Shutesbury town, Warwick town, Wendell town, Whately town
Lawrence, MA-NH HMFA	762	869	1115	1389	1490	Essex County towns of Andover town, Boxford town, Georgetown town, Groveland town, Haverhill city, Lawrence city, Merrimac town, Methuen city, North Andover town, West Newbury town
Lowell, MA HMFA	759	874	1122	1397	1646	Middlesex County towns of Billerica town, Chelmsford town, Dracut town, Dunstable town, Groton town, Lowell city, Pepperell town, Tewksbury town, Tyngsborough town, Westford town
New Bedford, MA HMFA	676	715	848	1056	1133	Bristol County towns of Acushnet town, Dartmouth town, Fairhaven town, Freetown town, New Bedford city
Pittsfield, MA HMFA	527	677	803	1000	1128	Berkshire County towns of Adams town, Cheshire town, Dalton town, Hinsdale town, Lanesborough town, Lee town, Lenox town, Pittsfield city, Richmond town, Stockbridge town
Providence-Fall River, RI-MA HMFA	675	762	930	1158	1386	Bristol County towns of Attleboro city, Fall River city, North Attleborough town, Rehoboth town, Seekonk town, Somerset town, Swansea town, Westport town
Springfield, MA HMFA	624	748	935	1167	1330	Franklin County towns of Sunderland town Hampden County towns of Agawam Town city, Blandford town, Brimfield town, Chester town, Chicopee city, East Longmeadow town, Granville town, Hampden town, Holland town, Holyoke city, Longmeadow town, Ludlow town, Monson town, Montgomery town, Palmer Town city, Russell town, Southwick town, Springfield city, Tolland town, Wales town, Westfield city, West Springfield Town city, Wilbraham town Hampshire County towns of Amherst town, Belchertown town, Chesterfield town, Cummington town, Easthampton Town city, Goshen town, Granby town, Hadley town, Hatfield town, Huntington town, Middlefield town, Northampton city, Pelham town, Plainfield town, Southampton town, South Hadley town, Ware town, Westhampton town, Williamsburg town, Worthington town
Taunton-Mansfield-Norton, MA HMFA	826	872	1134	1412	1515	Bristol County towns of Berkley town, Dighton town, Mansfield town, Norton town, Taunton city
Western Worcester County, MA HMFA	499	647	767	995	1358	Worcester County towns of Athol town, Hardwick town, Hubbardston town, New Braintree town, Petersham town, Phillipston town, Royalston town, Warren town
Worcester, MA HMFA	629	768	966	1203	1315	Worcester County towns of Auburn town, Barre town,

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

MASSACHUSETTS continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Boylston town, Brookfield town, Charlton town, Clinton town, Douglas town, Dudley town, East Brookfield town, Grafton town, Holden town, Leicester town, Millbury town, Northborough town, Northbridge town, North Brookfield town, Oakham town, Oxford town, Paxton town, Princeton town, Rutland town, Shrewsbury town, Southbridge Town city, Spencer town, Sterling town, Sturbridge town, Sutton town, Uxbridge town, Webster town, Westborough town, West Boylston town, West Brookfield town, Worcester city

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
Dukes County, MA	833	1035	1400	1818	1871	Aquinnah town, Chilmark town, Edgartown town, Gosnold town, Oak Bluffs town, Tisbury town, West Tisbury town
Nantucket County, MA	1117	1387	1877	2635	2644	Nantucket town

MICHIGAN

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Ann Arbor, MI MSA	630	760	901	1232	1596	Washtenaw
Barry County, MI HMFA	506	531	718	940	1003	Barry
Battle Creek, MI MSA	449	587	740	933	1035	Calhoun
Bay City, MI MSA	372	489	626	835	987	Bay
Cass County, MI HMFA	475	478	626	899	903	Cass
Detroit-Warren-Livonia, MI HMFA	495	629	821	1095	1196	Lapeer, Macomb, Oakland, St. Clair, Wayne
Flint, MI MSA	423	547	711	928	1048	Genesee
Grand Rapids-Wyoming, MI HMFA	520	590	739	1031	1160	Kent
Holland-Grand Haven, MI MSA	574	600	711	982	1049	Ottawa
Ionia County, MI HMFA	524	528	697	939	1014	Ionia
Jackson, MI MSA	471	547	711	978	981	Jackson
Kalamazoo-Portage, MI MSA	464	563	716	942	1147	Kalamazoo, Van Buren
Lansing-East Lansing, MI MSA	503	641	797	1060	1285	Clinton, Eaton, Ingham
Livingston County, MI HMFA	487	681	807	1169	1403	Livingston
Monroe, MI MSA	449	562	754	971	1149	Monroe
Muskegon-Norton Shores, MI MSA	380	472	638	870	995	Muskegon
Newaygo County, MI HMFA	488	491	626	822	1013	Newaygo
Niles-Benton Harbor, MI MSA	456	518	676	909	1059	Berrien
Saginaw-Saginaw Township North, MI MSA	399	529	665	886	1020	Saginaw

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alcona	436	463	626	833	1109
Allegan	574	583	710	923	959
Antrim	386	490	649	881	1108
Baraga	436	463	626	780	862
Branch	495	498	633	865	868
Cheboygan	436	517	626	922	926

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alger	443	470	636	792	1021
Alpena	400	507	626	922	1093
Arenac	472	512	626	895	1109
Benzie	527	551	653	962	1157
Charlevoix	552	564	683	851	1080
Chippewa	443	481	635	791	849

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

MICHIGAN continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Clare	448	475	643	801	859
Delta	470	473	626	922	1008
Emmet	552	564	763	975	1326
Gogebic	430	463	626	857	987
Gratiot	445	472	638	816	1022
Houghton	453	463	626	780	893
Iosco	506	528	626	922	1109
Isabella	435	587	696	924	1130
Keweenaw	436	463	626	922	926
Leelanau	568	694	823	1025	1100
Luce	436	483	626	890	904
Manistee	452	479	648	819	866
Mason	455	483	653	854	873
Menominee	436	476	626	829	968
Missaukee	436	528	626	884	887
Montmorency	445	493	667	929	1181
Ogemaw	436	481	626	780	837
Osceola	436	463	626	888	943
Otsego	478	507	686	966	1038
Roscommon	436	481	626	826	991
Sanilac	436	463	626	817	913
Shiawassee	456	567	767	964	1025
Wexford	390	506	655	897	900

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Crawford	443	470	636	805	1126
Dickinson	436	468	626	780	1109
Gladwin	436	528	626	922	1109
Grand Traverse	571	600	797	1068	1072
Hillsdale	409	512	669	918	922
Huron	436	518	626	911	978
Iron	454	463	626	799	837
Kalkaska	491	521	705	974	978
Lake	436	463	626	861	1105
Lenawee	542	548	671	836	930
Mackinac	436	528	626	791	897
Marquette	474	538	688	857	919
Mecosta	455	528	626	871	878
Midland	537	541	702	1034	1138
Montcalm	480	510	643	910	1032
Oceana	473	477	626	794	1019
Ontonagon	488	491	626	829	897
Oscoda	468	496	671	836	897
Presque Isle	436	481	626	884	1109
St. Joseph	454	518	642	850	916
Schoolcraft	436	463	626	780	1109
Tuscola	374	501	626	866	1027

MINNESOTA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Duluth, MN-WI MSA	459	552	725	945	1052	Carlton, St. Louis
Fargo, ND-MN MSA	408	495	639	942	1114	Clay
Grand Forks, ND-MN MSA	420	512	686	928	1119	Polk
La Crosse, WI-MN MSA	416	520	699	972	1183	Houston
Mankato-North Mankato, MN MSA	535	611	765	1050	1355	Blue Earth, Nicollet
Minneapolis-St. Paul-Bloomington, MN-WI MSA	592	736	920	1296	1529	Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington, Wright
Rochester, MN HMFA	573	622	838	1123	1484	Dodge, Olmsted
St. Cloud, MN MSA	565	583	699	923	1238	Benton, Stearns
Wabasha County, MN HMFA	511	514	641	945	1004	Wabasha

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Aitkin	456	528	626	922	1109
Beltrami	418	493	648	894	925
Brown	417	528	626	780	837
Chippewa	417	528	626	922	926
Cook	533	565	757	968	1102
Becker	417	503	626	826	837
Big Stone	417	527	626	780	837
Cass	477	511	671	836	1188
Clearwater	417	463	626	781	1100
Cottonwood	417	463	626	922	926

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

MINNESOTA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Crow Wing	421	522	706	1040	1044
Faribault	417	492	626	922	926
Freeborn	417	463	627	781	838
Grant	417	528	626	922	926
Itasca	444	552	747	930	998
Kanabec	520	577	781	1037	1044
Kittson	417	528	626	877	968
Lac qui Parle	417	463	626	780	959
Lake of the Woods	472	524	709	883	1032
Lincoln	417	528	626	780	837
McLeod	525	528	693	954	1021
Marshall	489	500	626	865	868
Meeker	449	623	754	939	1008
Morrison	478	481	626	806	837
Murray	417	528	626	780	1109
Norman	417	464	626	922	926
Pennington	372	463	626	780	1109
Pipestone	417	528	626	921	1014
Red Lake	417	486	626	893	911
Renville	417	524	626	780	856
Rock	470	473	640	797	857
Sibley	417	493	626	922	988
Stevens	517	521	653	813	873
Todd	417	463	626	905	962
Wadena	417	526	626	825	1109
Watonwan	417	466	626	922	926
Winona	460	533	693	915	1065

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Douglas	429	475	643	875	1080
Fillmore	506	526	626	899	965
Goodhue	489	557	754	1100	1312
Hubbard	407	463	626	912	1060
Jackson	417	485	626	893	1054
Kandiyohi	474	477	642	803	1031
Koochiching	417	463	626	780	911
Lake	410	481	651	925	948
Le Sueur	451	500	677	846	1110
Lyon	470	474	626	922	926
Mahnomen	458	509	688	857	1003
Martin	381	474	641	798	991
Mille Lacs	426	551	716	892	957
Mower	446	511	670	903	1095
Nobles	506	528	626	922	1027
Otter Tail	417	499	626	894	919
Pine	458	534	688	902	1038
Pope	455	506	684	852	914
Redwood	417	463	626	843	1109
Rice	492	611	827	1199	1205
Roseau	417	463	626	780	932
Steele	433	571	728	1003	1289
Swift	417	463	626	922	1109
Traverse	417	463	626	780	837
Waseca	439	488	660	973	1169
Wilkin	417	472	626	842	911
Yellow Medicine	417	471	626	921	1088

MISSISSIPPI

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Gulfport-Biloxi, MS MSA	692	714	857	1102	1174	Hancock, Harrison, Stone
Hattiesburg, MS MSA	518	546	700	938	986	Forrest, Lamar, Perry
Jackson, MS HMFA	482	671	810	1009	1108	Copiah, Hinds, Madison, Rankin
Marshall County, MS HMFA	433	436	590	848	1045	Marshall
Memphis, TN-MS-AR HMFA	567	648	768	1049	1170	DeSoto
Pascagoula, MS MSA	597	601	754	1035	1043	George, Jackson
Simpson County, MS HMFA	351	498	590	740	788	Simpson
Tate County, MS HMFA	532	535	724	902	1252	Tate
Tunica County, MS HMFA	499	518	701	873	1068	Tunica

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

MISSISSIPPI continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	402	498	590	773	998
Amite	402	498	590	805	972
Benton	402	498	590	759	788
Calhoun	351	444	590	833	1014
Chickasaw	365	436	590	735	788
Claiborne	402	498	590	780	788
Clay	448	486	658	820	879
Covington	402	486	590	869	1027
Greene	402	460	590	869	872
Holmes	402	498	590	735	788
Issaquena	407	491	597	880	883
Jasper	402	498	590	869	953
Jefferson Davis	402	449	590	869	872
Kemper	402	436	590	735	788
Lauderdale	402	498	590	843	1045
Leake	402	498	590	806	826
Leflore	477	488	590	735	799
Lowndes	402	515	611	855	858
Monroe	402	436	590	755	788
Neshoba	402	488	590	794	912
Noxubee	402	498	590	869	872
Panola	402	498	590	808	811
Pike	434	471	637	793	851
Prentiss	402	464	590	823	843
Scott	387	508	651	813	1059
Smith	402	436	590	735	889
Tallahatchie	477	498	590	869	872
Tishomingo	402	444	590	859	896
Walthall	490	592	719	895	961
Washington	478	481	603	844	847
Webster	477	498	590	869	1045
Winston	402	486	591	854	857
Yazoo	414	449	608	758	813

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alcorn	402	498	590	801	884
Attala	402	498	590	869	872
Bolivar	485	488	660	822	882
Carroll	575	694	844	1208	1212
Choctaw	402	469	590	869	872
Clarke	402	498	590	869	872
Coahoma	367	520	617	768	825
Franklin	402	436	590	869	872
Grenada	402	493	590	744	788
Humphreys	402	436	590	859	862
Itawamba	402	498	590	869	872
Jefferson	402	436	590	797	800
Jones	351	498	590	749	788
Lafayette	538	622	790	1006	1056
Lawrence	402	498	590	736	1045
Lee	429	608	721	981	985
Lincoln	401	440	595	783	960
Marion	424	489	622	775	844
Montgomery	402	486	590	828	927
Newton	402	437	591	827	1047
Oktibbeha	531	557	665	953	1142
Pearl River	445	483	654	957	960
Pontotoc	411	446	603	815	1027
Quitman	351	498	590	735	788
Sharkey	402	498	590	735	788
Sunflower	411	436	590	773	876
Tippah	402	498	590	784	877
Union	402	498	590	869	1045
Warren	519	522	665	829	915
Wayne	402	436	590	738	1045
Wilkinson	402	436	590	735	788
Yalobusha	402	498	590	869	1045

MISSOURI

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bates County, MO HMFA	414	488	660	888	891	Bates
Calloway County, MO HMFA	460	463	626	839	913	Callaway
Cape Girardeau-Jackson, MO-IL MSA	428	532	720	934	1138	Bollinger, Cape Girardeau
Columbia, MO MSA	533	546	704	1030	1245	Boone, Howard
Dallas County, MO HMFA	401	491	595	741	795	Dallas
Jefferson City, MO HMFA	354	440	595	828	856	Cole, Osage

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

MISSOURI continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Joplin, MO MSA	440	447	595	813	816	Jasper, Newton
Kansas City, MO-KS HMFA	491	632	783	1073	1195	Caldwell, Cass, Clay, Clinton, Jackson, Lafayette, Platte, Ray
McDonald County, MO HMFA	440	443	595	877	901	McDonald
Moniteau County, MO HMFA	359	446	603	771	880	Moniteau
Polk County, MO HMFA	405	440	595	849	1054	Polk
Springfield, MO HMFA	442	487	656	966	969	Christian, Greene, Webster
St. Joseph, MO-KS MSA	438	474	633	811	1000	Andrew, Buchanan, DeKalb
St. Louis, MO-IL HMFA	543	643	830	1081	1227	Sullivan city part of Crawford, Franklin, Jefferson, Lincoln, St. Charles, St. Louis, Warren, St. Louis city
Washington County, MO HMFA	481	502	595	830	879	Washington

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adair	371	498	595	776	1054	Atchison	393	441	595	876	879
Audrain	414	463	627	856	969	Barry	385	502	595	768	795
Barton	354	455	595	748	795	Benton	409	458	620	914	917
Butler	374	450	595	741	799	Camden	413	528	626	892	1109
Carroll	460	463	595	741	795	Carter	393	502	595	877	919
Cedar	393	440	595	836	919	Chariton	393	440	595	741	795
Clark	354	460	595	776	919	Cooper	393	455	595	877	950
Crawford	487	492	607	756	904	Dade	393	456	595	807	810
Daviess	393	446	595	877	919	Dent	393	448	595	842	845
Douglas	393	502	595	819	822	Dunklin	437	440	595	876	879
Gasconade	393	460	595	877	1021	Gentry	393	440	595	817	909
Grundy	389	498	595	877	982	Harrison	395	469	599	746	801
Henry	395	448	598	847	1041	Hickory	415	440	595	741	795
Holt	393	440	595	777	917	Howell	354	454	595	761	1054
Iron	393	502	595	793	1054	Johnson	485	503	667	983	1009
Knox	393	451	595	877	919	Laclede	393	502	595	821	952
Lawrence	451	454	595	845	1054	Lewis	437	440	595	771	919
Linn	437	440	595	799	802	Livingston	473	476	644	850	861
Macon	449	452	612	837	940	Madison	393	440	595	761	795
Maries	393	502	595	877	973	Marion	357	443	599	747	934
Mercer	393	440	595	819	919	Miller	439	496	619	780	827
Mississippi	377	440	595	765	795	Monroe	402	450	609	758	825
Montgomery	393	440	595	750	1054	Morgan	371	460	623	776	881
New Madrid	476	479	595	775	795	Nodaway	474	477	595	746	877
Oregon	393	502	595	795	958	Ozark	393	502	595	741	919
Pemiscot	393	467	595	766	795	Perry	418	468	633	890	1031
Pettis	468	472	638	843	929	Phelps	379	471	637	866	994
Pike	395	442	598	870	873	Pulaski	381	532	640	943	1134
Putnam	427	478	647	806	1000	Ralls	393	502	595	877	1023
Randolph	366	459	615	766	1089	Reynolds	393	475	595	741	795

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

MISSOURI continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Ripley	393	440	595	877	904
Ste. Genevieve	446	449	607	854	938
Saline	393	440	595	808	913
Scotland	393	440	595	757	919
Shannon	354	440	595	741	919
Stoddard	393	445	595	800	803
Sullivan	483	486	658	925	1017
Texas	354	440	595	877	995
Wayne	393	502	595	819	1054
Wright	393	440	595	751	1046
St. Clair	393	488	595	741	795
St. Francois	510	514	695	938	1028
Schuyler	406	440	595	877	1054
Scott	363	451	610	768	840
Shelby	393	440	595	807	810
Stone	451	560	758	944	1013
Taney	539	572	709	883	1256
Vernon	383	453	613	810	819
Worth	393	440	595	762	919

MONTANA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Billings, MT MSA	483	536	725	1002	1006	Carbon, Yellowstone
Great Falls, MT MSA	496	517	663	959	977	Cascade
Missoula, MT MSA	545	591	738	1058	1307	Missoula

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Beaverhead	460	463	626	922	992
Blaine	457	463	626	780	837
Carter	457	515	626	879	992
Custer	442	525	626	913	916
Dawson	457	470	626	899	1109
Fallon	457	515	626	922	992
Flathead	516	604	747	1101	1323
Garfield	457	483	626	879	992
Golden Valley	482	557	660	822	1046
Hill	457	471	626	922	926
Judith Basin	457	528	626	893	992
Lewis and Clark	532	536	723	976	1159
Lincoln	506	528	626	881	1109
Madison	518	599	710	884	949
Mineral	457	520	626	865	869
Park	453	563	762	949	1349
Phillips	457	493	626	879	992
Powder River	457	483	626	922	992
Prairie	457	528	626	879	992
Richland	457	528	626	802	1109
Rosebud	457	463	626	780	837
Sheridan	457	528	626	922	1109
Stillwater	422	463	626	883	1109
Teton	457	487	626	868	992
Big Horn	457	528	626	888	891
Broadwater	495	501	678	844	1075
Chouteau	457	528	626	922	935
Daniels	457	483	626	855	992
Deer Lodge	457	528	626	922	1075
Fergus	457	508	626	818	1109
Gallatin	549	594	745	1098	1319
Glacier	506	528	626	922	995
Granite	457	463	626	780	992
Jefferson	457	463	626	780	837
Lake	394	559	663	854	1110
Liberty	457	483	626	879	992
McCone	457	483	626	922	1109
Meagher	457	463	626	780	992
Musselshell	457	463	626	870	992
Petroleum	482	509	660	927	1046
Pondera	457	528	626	922	1109
Powell	457	528	626	780	1092
Ravalli	527	530	714	1052	1056
Roosevelt	457	463	626	780	837
Sanders	374	466	626	796	896
Silver Bow	470	473	640	797	937
Sweet Grass	457	528	626	922	1109
Toole	457	528	626	922	1109

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

MONTANA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Treasure	457	483	626	872	992
Wheatland	457	483	626	879	992
Valley	457	528	626	867	870
Wibaux	457	483	626	879	992

NEBRASKA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Lincoln, NE HMFA	412	525	693	964	1203	Lancaster
Omaha-Council Bluffs, NE-IA HMFA	493	659	828	1110	1233	Cass, Douglas, Sarpy, Washington
Saunders County, NE HMFA	463	576	779	970	1041	Saunders
Seward County, NE HMFA	370	484	622	862	1102	Seward
Sioux City, IA-NE-SD MSA	391	511	657	863	969	Dakota, Dixon

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	470	473	640	797	855
Arthur	419	466	622	917	920
Blaine	419	466	622	775	850
Box Butte	419	477	622	816	865
Brown	419	460	622	775	917
Burt	421	462	625	859	862
Cedar	419	460	622	775	1102
Cherry	456	500	676	842	924
Clay	419	525	622	775	831
Cuming	419	460	622	775	843
Dawes	443	460	622	917	920
Deuel	426	467	632	787	864
Dundy	419	460	622	775	850
Franklin	419	466	622	914	1102
Furnas	419	460	622	775	850
Garden	419	466	622	775	1029
Gosper	419	460	622	775	850
Greeley	419	466	622	917	970
Hamilton	430	472	638	811	968
Hayes	419	466	622	775	831
Holt	419	525	622	775	861
Howard	419	460	622	788	831
Johnson	439	482	652	812	871
Keith	419	525	622	844	1030
Kimball	419	460	622	775	831
Lincoln	409	508	687	856	980
Loup	419	466	622	775	850
Madison	419	466	622	802	997
Morrill	419	460	622	788	915
Nemaha	419	493	622	775	1102
Antelope	419	525	622	807	831
Banner	419	466	622	784	850
Boone	419	525	622	775	831
Boyd	419	525	622	917	920
Buffalo	413	493	667	900	1150
Butler	419	460	622	821	1026
Chase	419	460	622	775	879
Cheyenne	419	486	622	901	904
Colfax	472	591	701	873	974
Custer	419	525	622	917	1102
Dawson	446	489	661	823	883
Dodge	395	503	664	872	887
Fillmore	419	460	622	805	838
Frontier	419	460	622	775	831
Gage	408	469	626	816	851
Garfield	419	466	622	775	831
Grant	419	466	622	775	850
Hall	411	515	666	832	890
Harlan	419	460	622	775	831
Hitchcock	419	466	622	775	875
Hooker	419	466	622	797	850
Jefferson	419	471	622	775	1015
Kearney	419	524	622	842	845
Keya Paha	419	466	622	775	850
Knox	419	525	622	917	1102
Logan	499	555	741	923	1013
McPherson	419	466	622	775	850
Merrick	419	460	622	917	920
Nance	419	525	622	775	842
Nuckolls	419	525	622	917	920

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

NEBRASKA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Otoe	419	475	622	917	1102
Perkins	419	466	622	775	976
Pierce	419	525	622	775	1098
Polk	419	460	622	775	831
Richardson	419	516	622	775	831
Saline	472	518	701	873	937
Sheridan	419	525	622	840	843
Sioux	419	525	622	838	850
Thayer	419	460	622	775	831
Thurston	419	460	622	775	831
Wayne	419	460	622	865	868
Wheeler	419	466	622	917	920

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Pawnee	419	460	622	775	831
Phelps	419	525	622	775	1102
Platte	502	525	622	775	949
Red Willow	419	491	622	775	981
Rock	419	466	622	791	850
Scotts Bluff	466	495	659	821	967
Sherman	419	460	622	775	984
Stanton	419	460	622	917	1003
Thomas	419	466	622	775	850
Valley	419	460	622	775	850
Webster	419	525	622	917	1102
York	423	474	628	782	839

NEVADA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Carson City, NV MSA	560	702	893	1273	1550	Carson
*Las Vegas-Paradise, NV MSA	691	864	1064	1568	1861	Clark
Reno-Sparks, NV MSA	568	721	953	1404	1688	Storey, Washoe

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Churchill	490	637	822	1024	1456
Elko	478	594	803	1026	1307
Eureka	482	598	809	1008	1298
Lander	404	572	678	884	1088
Lyon	455	638	756	1114	1339
Nye	496	616	834	1119	1131
White Pine	436	617	732	1057	1061

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Douglas	571	767	949	1398	1681
Esmeralda	385	477	646	907	1037
Humboldt	398	494	668	955	1072
Lincoln	435	539	729	948	992
Mineral	380	538	638	795	1024
Pershing	373	528	626	922	1005

NEW HAMPSHIRE

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Boston-Cambridge-Quincy, MA-NH HMFA	1035	1156	1444	1798	1955	Rockingham County towns of Seabrook town, South Hampton town
Hillsborough County, NH (part) HMFA	714	757	912	1139	1305	Hillsborough County towns of Antrim town, Bennington town, Deering town, Francestown town, Greenfield town, Hancock town, Hillsborough town, Lyndeborough town, New Boston town, Peterborough town, Sharon town, Temple town, Windsor town
Lawrence, MA-NH HMFA	762	869	1115	1389	1490	Rockingham County towns of Atkinson town, Chester town, Danville town, Derry town, Fremont town, Hampstead town, Kingston town, Newton town, Plaistow town, Raymond town, Salem town, Sandown town, Windham town
Manchester, NH HMFA	651	862	1095	1364	1544	Hillsborough County towns of Bedford town, Goffstown town, Manchester city, Weare town

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

NEW HAMPSHIRE continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Nashua, NH HMFA	792	899	1174	1578	1832	Hillsborough County towns of Amherst town, Brookline town, Greenville town, Hollis town, Hudson town, Litchfield town, Mason town, Merrimack town, Milford town, Mont Vernon town, Nashua city, New Ipswich town, Pelham town, Wilton town
Portsmouth-Rochester, NH HMFA	734	856	1088	1491	1556	Rockingham County towns of Brentwood town, East Kingston town, Epping town, Exeter town, Greenland town, Hampton town, Hampton Falls town, Kensington town, New Castle town, Newfields town, Newington town, Newmarket town, North Hampton town, Portsmouth city, Rye town, Stratham town Strafford County towns of Barrington town, Dover city, Durham town, Farmington town, Lee town, Madbury town, Middleton town, Milton town, New Durham town, Rochester city, Rollinsford town, Somersworth city, Strafford town
Western Rockingham County, NH HMFA	869	881	1192	1636	1642	Rockingham County towns of Auburn town, Candia town, Deerfield town, Londonderry town, Northwood town, Nottingham town

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
Belknap County, NH	739	744	1006	1431	1436	Alton town, Barnstead town, Belmont town, Center Harbor town, Gilford town, Gilmanton town, Laconia city, Meredith town, New Hampton town, Sanbornton town, Tilton town
Carroll County, NH	699	777	1007	1402	1407	Albany town, Bartlett town, Brookfield town, Chatham town, Conway town, Eaton town, Effingham town, Freedom town, Hale's location, Hart's Location town, Jackson town, Madison town, Moultonborough town, Ossipee town, Sandwich town, Tamworth town, Tuftonboro town, Wakefield town, Wolfeboro town
Cheshire County, NH	637	764	1008	1255	1642	Alstead town, Chesterfield town, Dublin town, Fitzwilliam town, Gilsum town, Harrisville town, Hinsdale town, Jaffrey town, Keene city, Marlborough town, Marlow town, Nelson town, Richmond town, Rindge town, Roxbury town, Stoddard town, Sullivan town, Surry town, Swanzey town, Troy town, Walpole town, Westmoreland town, Winchester town
Coos County, NH	558	583	691	922	1106	Atkinson and Gilmanton Academy grant, Beans grant, Beans purchase, Berlin city, Cambridge township, Carroll town, Chandlers purchase, Clarksville town, Colebrook town, Columbia town, Crawfords purchase, Cutts grant, Dalton town, Dixs grant, Dixville township, Dummer town, Errol town, Ervings location, Gorham town, Greens grant, Hadleys purchase, Jefferson town, Kilkenny township, Lancaster town, Low and Burbanks grant, Martins location, Milan town, Millsfield township, Northumberland town, Odell township, Pinkhams grant, Pittsburg town, Randolph town, Sargents purchase, Second College grant, Shelburne town, Stark town, Stewartstown town, Stratford town, Success township,

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

NEW HAMPSHIRE continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
Grafton County, NH	780	798	1004	1260	1401	Thompson and Meserves purchase, Wentworth location, Whitefield town Alexandria town, Ashland town, Bath town, Benton town, Bethlehem town, Bridgewater town, Bristol town, Campton town, Canaan town, Dorchester town, Easton town, Ellsworth town, Enfield town, Franconia town, Grafton town, Groton town, Hanover town, Haverhill town, Hebron town, Holderness town, Landaff town, Lebanon city, Lincoln town, Lisbon town, Littleton town, Livermore town, Lyman town, Lyme town, Monroe town, Orange town, Orford town, Piermont town, Plymouth town, Rumney town, Sugar Hill town, Thornton town, Warren town, Waterville Valley town, Wentworth town, Woodstock town
Merrimack County, NH	654	819	1024	1350	1611	Allenstown town, Andover town, Boscawen town, Bow town, Bradford town, Canterbury town, Chichester town, Concord city, Danbury town, Dunbarton town, Epsom town, Franklin city, Henniker town, Hill town, Hooksett town, Hopkinton town, Loudon town, Newbury town, New London town, Northfield town, Pembroke town, Pittsfield town, Salisbury town, Sutton town, Warner town, Webster town, Wilmot town
Sullivan County, NH	672	765	933	1264	1285	Acworth town, Charlestown town, Claremont city, Cornish town, Croydon town, Goshen town, Grantham town, Langdon town, Lempster town, Newport town, Plainfield town, Springfield town, Sunapee town, Unity town, Washington town

NEW JERSEY

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Atlantic City-Hammonton, NJ MSA	815	944	1173	1622	1885	Atlantic
*Bergen-Passaic, NJ HMFA	1132	1223	1450	1878	2130	Bergen, Passaic
Jersey City, NJ HMFA	1014	1115	1322	1682	1857	Hudson
Middlesex-Somerset-Hunterdon, NJ HMFA	904	1153	1420	1843	2417	Hunterdon, Middlesex, Somerset
Monmouth-Ocean, NJ HMFA	961	1135	1410	1955	2299	Monmouth, Ocean
Newark, NJ HMFA	971	1007	1202	1550	1772	Essex, Morris, Sussex, Union
Ocean City, NJ MSA	606	756	1019	1442	1517	Cape May
*Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA	788	929	1119	1394	1496	Burlington, Camden, Gloucester, Salem
Trenton-Ewing, NJ MSA	886	1001	1206	1577	1823	Mercer
Vineland-Millville-Bridgeton, NJ MSA	769	888	1094	1405	1761	Cumberland
Warren County, NJ HMFA	659	884	1078	1409	1571	Warren

NEW MEXICO

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albuquerque, NM MSA	507	637	780	1129	1381	Bernalillo, Sandoval, Torrance, Valencia
Farmington, NM MSA	540	580	785	978	1049	San Juan
Las Cruces, NM MSA	444	534	633	906	1007	Dona Ana

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

NEW MEXICO continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Santa Fe, NM MSA	756	823	976	1308	1399	Santa Fe

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Catron	470	528	626	922	939	Chaves	525	577	780	1101	1361
Cibola	475	479	626	864	1109	Colfax	460	463	626	780	837
Curry	471	475	639	934	1132	De Baca	470	528	626	922	939
Eddy	483	496	659	847	881	Grant	470	528	626	922	1006
Guadalupe	470	487	626	922	939	Harding	470	487	626	829	939
Hidalgo	470	487	626	922	939	Lea	485	489	661	840	869
Lincoln	519	645	872	1086	1165	Los Alamos	639	822	1066	1393	1806
Luna	470	527	626	902	905	McKinley	482	528	626	780	837
Mora	470	528	626	824	939	Otero	386	528	626	913	1109
Quay	474	477	645	829	862	Rio Arriba	427	531	718	894	960
Roosevelt	372	485	626	780	1109	San Miguel	372	515	626	827	857
Sierra	437	475	643	801	965	Socorro	440	463	626	780	1109
Taos	579	695	832	1036	1112	Union	460	463	626	907	939

NEW YORK

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albany-Schenectady-Troy, NY MSA	657	744	921	1147	1231	Albany, Rensselaer, Saratoga, Schenectady, Schoharie
Binghamton, NY MSA	528	558	713	1017	1152	Broome, Tioga
Buffalo-Niagara Falls, NY MSA	557	591	736	941	1065	Erie, Niagara
Elmira, NY MSA	467	561	736	943	1057	Chemung
Glens Falls, NY MSA	520	666	809	1087	1241	Warren, Washington
Ithaca, NY MSA	682	836	1001	1387	1392	Tompkins
Kingston, NY MSA	743	924	1197	1569	1818	Ulster
Nassau-Suffolk, NY HMFA	1014	1285	1583	2058	2370	Nassau, Suffolk
New York, NY HMFA	1191	1243	1474	1895	2124	Bronx, Kings, New York, Putnam, Queens, Richmond, Rockland
Poughkeepsie-Newburgh-Middletown, NY MSA	853	984	1211	1517	1618	Dutchess, Orange
Rochester, NY MSA	579	705	859	1083	1157	Livingston, Monroe, Ontario, Orleans, Wayne
Syracuse, NY MSA	549	613	784	1029	1129	Madison, Onondaga, Oswego
Utica-Rome, NY MSA	563	573	729	966	1084	Herkimer, Oneida
Westchester County, NY Statutory Exception Area	980	1192	1468	1877	2180	Westchester

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Allegany	520	524	654	855	962	Cattaraugus	502	550	694	921	986
Cayuga	534	567	722	947	1130	Chautauqua	511	515	671	952	977
Chenango	531	534	670	950	981	Clinton	514	577	737	989	1067
Columbia	655	659	819	1062	1362	Cortland	575	584	727	939	972
Delaware	536	540	681	853	979	Essex	523	614	788	981	1216
Franklin	526	530	682	981	1085	Fulton	535	539	692	914	1047
Genesee	469	607	761	976	1077	Greene	590	668	792	1060	1170
Hamilton	535	593	703	876	1012	Jefferson	700	806	1048	1332	1504

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

NEW YORK continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Lewis	492	533	647	953	1000
Otsego	607	657	816	1097	1165
Schuyler	482	527	633	913	1082
Steuben	474	560	686	887	999
Wyoming	478	538	728	950	973

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Montgomery	576	580	731	910	1032
St. Lawrence	485	550	699	938	1016
Seneca	492	608	721	1029	1033
Sullivan	686	691	857	1115	1518
Yates	503	508	661	902	1171

NORTH CAROLINA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anson County, NC HMFA	467	514	610	893	1080	Anson
Asheville, NC HMFA	462	655	777	997	1293	Buncombe, Henderson, Madison
Burlington, NC MSA	553	557	702	913	938	Alamance
Charlotte-Gastonia-Rock Hill, NC-SC HMFA	607	669	793	1069	1326	Cabarrus, Gaston, Mecklenburg, Union
Durham-Chapel Hill, NC HMFA	573	708	839	1082	1267	Chatham, Durham, Orange
Fayetteville, NC HMFA	580	584	747	999	1258	Cumberland
Goldsboro, NC MSA	433	452	611	797	974	Wayne
Greene County, NC HMFA	448	451	610	766	815	Greene
Greensboro-High Point, NC HMFA	516	591	701	953	1075	Guilford, Randolph
Greenville, NC HMFA	541	545	704	954	1247	Pitt
Haywood County, NC HMFA	556	560	721	1000	1277	Haywood
Hickory-Lenoir-Morganton, NC MSA	493	514	610	798	993	Alexander, Burke, Caldwell, Catawba
Hoke County, NC HMFA	486	489	626	871	1079	Hoke
Jacksonville, NC MSA	666	671	824	1159	1459	Onslow
Pender County, NC HMFA	459	462	625	921	1041	Pender
Person County, NC HMFA	442	478	647	806	927	Person
Raleigh-Cary, NC MSA	634	741	878	1137	1412	Franklin, Johnston, Wake
Rockingham County, NC HMFA	480	483	611	761	817	Rockingham
Rocky Mount, NC MSA	510	513	634	865	912	Edgecombe, Nash
*Virginia Beach-Norfolk-Newport News, VA-NC MSA	918	944	1136	1570	1976	Currituck
Wilmington, NC HMFA	615	660	816	1076	1227	Brunswick, New Hanover
Winston-Salem, NC MSA	533	554	678	978	1032	Davie, Forsyth, Stokes, Yadkin

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alleghany	493	514	610	874	877
Avery	517	520	704	1037	1041
Bertie	451	455	615	814	822
Camden	675	680	849	1057	1278
Caswell	445	451	610	873	945
Chowan	526	549	651	863	1153
Cleveland	481	484	610	846	885
Craven	451	560	758	983	1323
Davidson	457	485	610	850	961
Gates	488	491	613	815	1077
Granville	583	607	722	899	980
Harnett	554	557	754	1002	1229

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Ashe	425	465	610	760	815
Beaufort	472	475	610	899	1014
Bladen	448	451	610	760	815
Carteret	577	602	714	1021	1265
Cherokee	448	451	610	806	1036
Clay	493	514	610	899	1080
Columbus	493	498	610	760	815
Dare	651	683	924	1296	1549
Duplin	482	485	610	760	891
Graham	448	451	610	899	1080
Halifax	444	505	610	795	1076
Hertford	512	535	634	790	1123

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

NORTH CAROLINA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Hyde	631	635	793	988	1060
Jackson	499	502	642	833	1045
Lee	540	564	669	833	894
Lincoln	493	514	610	831	834
Macon	514	517	700	872	935
Mitchell	448	451	610	785	918
Moore	493	507	610	894	1076
Pamlico	450	453	613	875	1072
Perquimans	493	514	610	899	1080
Richmond	493	514	610	808	815
Rowan	501	504	652	868	1001
Sampson	363	491	610	824	947
Stanly	365	465	613	847	1070
Swain	543	546	739	920	1114
Tyrrell	493	514	610	781	918
Warren	379	464	610	899	1080
Watauga	480	627	806	1130	1315
Wilson	450	520	703	935	939
Iredell	590	616	730	947	1290
Jones	493	514	610	799	815
Lenoir	381	490	640	797	875
McDowell	448	451	610	761	998
Martin	493	514	610	760	815
Montgomery	479	482	610	800	916
Northampton	454	457	610	814	1047
Pasquotank	582	586	737	990	1162
Polk	481	484	640	797	1064
Robeson	465	468	610	774	939
Rutherford	493	514	610	865	1016
Scotland	457	460	622	795	831
Surry	493	514	610	899	1080
Transylvania	494	498	651	867	870
Vance	399	495	670	834	977
Washington	485	488	610	874	1030
Wilkes	458	514	610	760	1019
Yancey	458	461	610	767	815

NORTH DAKOTA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bismarck, ND MSA	443	502	628	890	1050	Burleigh, Morton
Fargo, ND-MN MSA	408	495	639	942	1114	Cass
Grand Forks, ND-MN MSA	420	512	686	928	1119	Grand Forks

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	456	458	573	844	847
Benson	463	483	573	844	847
Bottineau	421	424	573	714	766
Burke	441	444	573	741	766
Dickey	463	483	573	765	777
Dunn	441	444	573	844	847
Emmons	463	483	573	844	956
Golden Valley	463	483	573	798	801
Griggs	463	483	573	844	1015
Kidder	427	430	573	828	831
Logan	456	458	573	798	801
McIntosh	508	511	692	862	926
McLean	458	461	573	781	822
Mountrail	496	518	614	765	1071
Oliver	456	458	573	798	801
Barnes	471	474	601	749	803
Billings	456	459	574	715	778
Bowman	463	483	573	844	847
Cavalier	421	424	573	798	950
Divide	456	458	573	798	801
Eddy	463	483	573	844	847
Foster	445	448	573	843	1015
Grant	421	424	573	798	801
Hettinger	463	483	573	844	847
LaMoure	431	434	587	865	868
McHenry	447	450	573	752	892
McKenzie	421	424	573	844	847
Mercer	463	483	573	844	847
Nelson	463	483	573	798	801
Pembina	463	483	573	714	766

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

NORTH DAKOTA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Pierce	463	483	573	844	847
Ransom	440	443	594	875	878
Richland	421	424	573	840	907
Sargent	421	424	573	826	902
Sioux	456	458	573	790	793
Stark	532	555	658	913	916
Stutsman	445	448	590	735	968
Traill	424	427	578	737	774
Ward	456	486	641	945	983
Williams	455	496	605	753	809

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Ramsey	447	450	573	786	789
Renville	421	424	573	844	847
Rolette	463	483	573	844	923
Sheridan	463	472	573	798	801
Slope	456	459	574	800	803
Steele	460	463	573	759	777
Towner	421	424	573	798	936
Walsh	463	483	573	774	867
Wells	463	483	573	844	908

OHIO

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Akron, OH MSA	501	582	787	1013	1052	Portage, Summit
Brown County, OH HMFA	366	473	615	872	932	Brown
Canton-Massillon, OH MSA	394	493	642	843	906	Carroll, Stark
Cincinnati-Middleton, OH-KY-IN HMFA	445	557	740	1025	1129	Butler, Clermont, Hamilton, Warren
Cleveland-Elyria-Mentor, OH MSA	487	585	741	993	1025	Cuyahoga, Geauga, Lake, Lorain, Medina
Columbus, OH HMFA	484	601	782	1008	1166	Delaware, Fairfield, Franklin, Licking, Madison, Morrow, Pickaway
Dayton, OH HMFA	501	563	738	988	1107	Greene, Miami, Montgomery
Huntington-Ashland, WV-KY-OH MSA	373	510	627	828	1017	Lawrence
Lima, OH MSA	463	467	625	778	847	Allen
Mansfield, OH MSA	460	463	615	903	906	Richland
Parkersburg-Marietta-Vienna, WV-OH MSA	458	494	645	866	952	Washington
Preble County, OH HMFA	403	500	677	902	906	Preble
Sandusky, OH MSA	405	551	680	886	909	Erie
Springfield, OH MSA	450	507	661	871	955	Clark
Steubenville-Weirton, OH-WV MSA	433	500	615	824	944	Jefferson
Toledo, OH MSA	406	521	683	921	974	Fulton, Lucas, Ottawa, Wood
Union County, OH HMFA	493	597	797	993	1065	Union
Wheeling, WV-OH MSA	467	494	615	789	822	Belmont
Youngstown-Warren-Boardman, OH HMFA	442	500	619	816	862	Mahoning, Trumbull

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	418	486	615	779	822
Ashtabula	440	512	667	903	908
Auglaize	396	484	655	900	1076
Clinton	449	490	663	866	1034
Coshocton	418	482	615	847	868
Darke	450	507	615	889	999
Fayette	515	519	702	874	1037
Guernsey	366	481	615	768	858
Hardin	403	480	615	850	1024
Henry	418	507	615	893	1089

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Ashland	371	489	623	882	922
Athens	546	570	676	851	904
Champaign	400	503	615	906	978
Columbiana	392	476	615	814	892
Crawford	388	467	632	892	895
Defiance	474	477	615	810	1047
Gallia	418	495	615	811	916
Hancock	422	539	691	1009	1043
Harrison	366	512	615	875	878
Highland	398	496	652	812	871

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

OHIO continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Hocking	418	481	615	817	822
Huron	366	465	615	863	974
Knox	496	500	626	873	938
Marion	493	560	719	953	1055
Mercer	418	455	615	851	854
Morgan	456	501	615	906	909
Noble	479	482	615	847	902
Perry	418	455	615	806	861
Putnam	445	496	655	816	875
Sandusky	418	505	615	812	1089
Seneca	474	477	615	856	865
Tuscarawas	371	474	624	779	834
Vinton	418	519	615	872	968
Williams	461	464	620	772	906

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Holmes	418	476	615	774	822
Jackson	497	514	615	812	822
Logan	470	473	640	849	980
Meigs	418	464	615	800	933
Monroe	418	519	615	766	822
Muskingum	366	501	615	881	969
Paulding	418	487	615	786	822
Pike	497	519	615	906	1069
Ross	446	487	659	831	1068
Scioto	420	519	615	766	904
Shelby	419	497	672	837	898
Van Wert	452	462	615	803	847
Wayne	403	504	641	827	857
Wyandot	437	519	615	888	1060

OKLAHOMA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Fort Smith, AR-OK HMFA	502	505	662	882	994	Sequoyah
Grady County, OK HMFA	410	450	609	820	823	Grady
Lawton, OK MSA	479	489	662	916	1082	Comanche
Le Flore County, OK HMFA	466	469	591	776	963	Le Flore
Lincoln County, OK HMFA	405	476	591	805	808	Lincoln
Oklahoma City, OK HMFA	503	584	748	1024	1229	Canadian, Cleveland, Logan, McClain, Oklahoma
Okmulgee County, OK HMFA	352	498	591	736	790	Okmulgee
Pawnee County, OK HMFA	373	498	591	740	977	Pawnee
Tulsa, OK HMFA	455	553	721	978	1090	Creek, Osage, Rogers, Tulsa, Wagoner

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adair	416	437	591	743	790
Atoka	416	437	591	736	790
Beckham	496	500	676	842	1019
Bryan	464	467	596	825	896
Carter	378	449	607	756	846
Choctaw	416	444	591	871	1016
Coal	416	437	591	867	891
Craig	416	498	591	785	846
Delaware	450	453	591	833	1047
Ellis	416	498	591	736	891
Garvin	3[illegible]0	445	602	750	839
Greer	416	486	591	736	891
Harper	416	453	591	759	891
Hughes	416	498	591	759	790
Jefferson	416	437	591	736	790

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alfalfa	416	437	591	740	913
Beaver	416	453	591	757	891
Blaine	416	437	591	871	874
Caddo	437	464	591	736	1047
Cherokee	352	491	591	736	979
Cimarron	418	501	594	750	895
Cotton	416	437	591	736	790
Custer	477	489	591	871	874
Dewey	447	486	635	791	888
Garfield	409	514	610	813	911
Grant	416	498	591	736	790
Harmon	416	453	591	757	889
Haskell	416	437	591	816	819
Jackson	423	451	591	858	1047
Johnston	416	437	591	736	790

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

OKLAHOMA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Kay	465	468	633	819	1010
Kiowa	435	438	591	840	891
Love	416	498	591	822	825
McIntosh	399	437	591	736	1047
Marshall	416	437	591	813	859
Murray	449	472	638	795	853
Noble	416	498	591	799	862
Okfuskee	416	495	591	823	826
Payne	396	488	636	927	1126
Pontotoc	416	498	591	793	1012
Pushmataha	416	437	591	778	871
Seminole	391	469	591	868	902
Texas	427	511	606	755	1073
Washington	371	516	624	911	1087
Woods	416	437	591	736	794

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Kingfisher	445	467	632	814	1089
Latimer	416	471	591	854	857
McCurtain	416	437	591	804	990
Major	416	453	591	871	1047
Mayes	352	437	591	813	1047
Muskogee	411	501	658	920	960
Nowata	418	476	594	740	895
Ottawa	437	440	595	741	854
Pittsburg	383	490	644	802	861
Pottawatomie	465	468	633	801	848
Roger Mills	416	453	591	786	790
Stephens	416	437	591	828	1047
Tillman	416	444	591	767	790
Washita	416	498	591	871	1047
Woodward	477	498	591	871	1047

OREGON

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bend, OR MSA	557	645	803	1147	1373	Deschutes
Corvallis, OR MSA	450	578	757	1115	1341	Benton
Eugene-Springfield, OR MSA	488	611	821	1182	1387	Lane
Medford, OR MSA	602	608	823	1213	1367	Jackson
Portland-Vancouver-Hillsboro, OR-WA MSA	659	766	912	1344	1615	Clackamas, Columbia, Multnomah, Washington, Yamhill
Salem, OR MSA	530	560	756	1114	1339	Marion, Polk

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Baker	477	493	627	803	881
Coos	460	524	684	969	1193
Curry	515	591	799	1175	1226
Gilliam	404	475	626	903	1053
Harney	404	463	626	780	837
Jefferson	390	497	626	922	926
Klamath	422	555	684	986	1193
Lincoln	553	590	738	1087	1091
Malheur	432	481	626	882	942
Sherman	410	536	636	836	1070
Umatilla	374	471	629	827	1114
Wallowa	434	539	673	838	949
Wheeler	404	463	626	780	1053

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Clatsop	543	590	797	1136	1412
Crook	416	537	663	977	1135
Douglas	476	562	740	1090	1311
Grant	404	487	626	922	1109
Hood River	528	552	654	964	1066
Josephine	424	541	713	1031	1126
Lake	404	528	626	780	1109
Linn	469	543	734	1069	1172
Morrow	440	504	682	871	1056
Tillamook	453	571	714	988	1260
Union	391	486	657	899	1134
Wasco	506	557	705	1032	1146

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

PENNSYLVANIA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Allentown-Bethlehem-Easton, PA HMFA	631	724	915	1145	1299	Carbon, Lehigh, Northampton
Altoona, PA MSA	479	510	611	804	897	Blair
Armstrong County, PA HMFA	363	451	610	771	839	Armstrong
Erie, PA MSA	443	540	681	851	1016	Erie
Harrisburg-Carlisle, PA MSA	632	704	899	1160	1201	Cumberland, Dauphin, Perry
Johnstown, PA MSA	439	514	610	810	815	Cambria
Lancaster, PA MSA	605	689	881	1135	1177	Lancaster
Lebanon, PA MSA	489	638	822	1056	1166	Lebanon
*Philadelphia-Camden-Wilmington, PA-NJ-DE-MD MSA	788	929	1119	1394	1496	Bucks, Chester, Delaware, Montgomery, Philadelphia
Pike County, PA HMFA	809	814	1035	1301	1649	Pike
Pittsburgh, PA HMFA	540	619	772	969	1032	Allegheny, Beaver, Butler, Fayette, Washington, Westmoreland
Reading, PA MSA	532	659	873	1087	1167	Berks
Scranton--Wilkes-Barre, PA MSA	501	597	743	943	1059	Lackawanna, Luzerne, Wyoming
Sharon, PA HMFA	505	545	701	885	937	Mercer
State College, PA MSA	716	784	964	1263	1310	Centre
Williamsport, PA MSA	524	591	748	990	1014	Lycoming
York-Hanover, PA MSA	489	620	822	1062	1134	York

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	636	640	827	1099	1201
Bradford	455	461	610	818	821
Clarion	443	514	610	761	969
Clinton	494	497	673	874	1092
Crawford	443	493	610	807	884
Forest	493	514	610	899	1080
Fulton	443	514	610	763	815
Huntingdon	488	509	610	870	873
Jefferson	365	501	610	760	839
Lawrence	427	575	717	932	958
Mifflin	472	475	610	766	815
Montour	459	533	632	837	845
Potter	443	514	610	792	949
Snyder	494	515	611	788	817
Sullivan	488	491	610	843	846
Tioga	369	521	618	770	940
Venango	453	456	610	760	815
Wayne	407	558	661	974	977

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Bedford	493	507	610	790	815
Cameron	443	514	610	883	1080
Clearfield	431	474	610	817	820
Columbia	567	571	725	933	1257
Elk	443	493	610	760	815
Franklin	533	620	797	1060	1330
Greene	443	499	610	760	815
Indiana	493	514	610	821	824
Juniata	396	505	610	866	869
McKean	441	489	611	773	817
Monroe	688	815	1066	1480	1625
Northumberland	493	503	610	799	909
Schuylkill	369	476	620	850	856
Somerset	427	502	610	760	859
Susquehanna	493	514	610	799	933
Union	483	498	665	911	1045
Warren	493	507	610	766	895

RHODE ISLAND

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Newport-Middleton-Portsmouth, RI HMFA	908	914	1135	1672	2010	Newport County towns of Middletown town, Newport city, Portsmouth town
Providence-Fall River, RI-MA HMFA	675	762	930	1158	1386	Bristol County towns of Barrington town, Bristol town, Warren town

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

RHODE ISLAND continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Westerly-Hopkinton-New Shoreham, RI HMFA	588	731	989	1244	1557	Kent County towns of Coventry town, East Greenwich town, Warwick city, West Greenwich town, West Warwick town Newport County towns of Jamestown town, Little Compton town, Tiverton town Providence County towns of Burrillville town, Central Falls city, Cranston city, Cumberland town, East Providence city, Foster town; Glocester town, Johnston town, Lincoln town, North Providence town, North Smithfield town, Pawtucket city, Providence city, Scituate town, Smithfield town, Woonsocket city Washington County towns of Charlestown town, Exeter town, Narragansett town, North Kingstown town, Richmond town, South Kingstown town Washington County towns of Hopkinton town, New Shoreham town, Westerly town

SOUTH CAROLINA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anderson, SC MSA	521	529	645	883	913	Anderson
Augusta-Richmond County, GA-SC MSA	549	619	738	1004	1243	Aiken, Edgefield
Charleston-North Charleston-Summerville, SC MSA	710	740	879	1138	1510	Berkeley, Charleston, Dorchester
Charlotte-Gastonia-Rock Hill, NC-SC HMFA	607	669	793	1069	1326	York
Columbia, SC HMFA	595	645	765	1009	1279	Calhoun, Fairfield, Lexington, Richland, Saluda
Darlington County, SC HMFA	498	521	625	778	943	Darlington
Florence, SC HMFA	547	552	687	856	918	Florence
Greenville-Mauldin-Easley, SC MSA	478	603	715	948	1123	Greenville, Pickens
Kershaw County, SC HMFA	486	527	625	836	1061	Kershaw
Laurens County, SC HMFA	516	683	868	1118	1246	Laurens
Myrtle Beach-North Myrtle Beach-Conway, SC MSA	658	662	823	1025	1203	Horry
Spartanburg, SC MSA	412	550	652	871	979	Spartanburg
Sumter, SC MSA	484	487	625	778	965	Sumter

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Abbeville	465	468	625	849	1107
Bamberg	495	498	674	839	1194
Beaufort	624	758	899	1140	1377
Chester	505	527	625	816	958
Clarendon	459	462	625	778	1049
Dillon	459	462	625	892	895
Greenwood	537	540	702	926	969
Jasper	506	583	789	1055	1152
Lee	505	527	625	921	1107
Marion	505	527	625	786	920
Newberry	507	510	690	888	1200
Orangeburg	379	495	625	778	1056

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Allendale	499	502	625	778	1107
Barnwell	459	462	625	881	885
Cherokee	505	527	625	845	1107
Chesterfield	505	527	625	825	1029
Colleton	569	573	722	924	965
Georgetown	559	562	761	1010	1272
Hampton	476	479	648	816	866
Lancaster	492	495	625	860	921
McCormick	488	491	625	921	924
Marlboro	459	462	625	778	843
Oconee	529	532	673	838	1052
Union	475	478	647	855	865

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

SOUTH CAROLINA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Williamsburg	372	527	625	802	872

SOUTH DAKOTA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Meade County, SD HMFA	441	563	697	983	986	Meade
Rapid City, SD HMFA	493	583	779	1052	1380	Pennington
Sioux City, IA-NE-SD MSA	391	511	657	863	969	Union
Sioux Falls, SD MSA	461	541	681	958	1127	Lincoln, McCook, Minnehaha, Turner

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Aurora	455	460	623	851	854	Beadle	449	454	614	824	828
Bennett	449	518	614	905	1005	Bon Homme	449	495	614	861	939
Brookings	403	469	635	936	1125	Brown	400	454	614	781	1087
Brule	449	518	614	847	850	Buffalo	498	503	681	848	910
Butte	449	502	614	905	908	Campbell	464	496	635	876	879
Charles Mix	449	518	614	796	821	Clark	449	454	614	765	821
Clay	468	499	641	945	1135	Codington	402	486	632	815	845
Corson	449	455	614	874	877	Custer	527	533	721	898	1195
Davison	449	482	652	858	871	Day	449	454	614	905	908
Deuel	449	518	614	888	891	Dewey	449	454	614	854	865
Douglas	459	464	628	782	839	Edmunds	503	509	689	1015	1019
Fall River	525	531	718	985	988	Faulk	449	518	614	847	850
Grant	449	483	614	850	1055	Gregory	449	518	614	905	908
Haakon	449	455	614	905	908	Hamlin	487	490	614	905	908
Hand	449	467	614	895	898	Hanson	449	455	614	765	821
Harding	449	455	614	847	850	Hughes	479	484	655	965	1160
Hutchinson	449	512	614	820	1087	Hyde	449	455	614	905	908
Jackson	449	518	614	905	908	Jerauld	449	482	614	905	908
Jones	449	455	614	905	908	Kingsbury	449	473	614	905	986
Lake	449	518	614	905	908	Lawrence	438	510	643	916	919
Lyman	449	496	614	905	1087	McPherson	449	454	614	847	850
Marshall	449	454	614	905	908	Mellette	449	455	614	905	908
Miner	449	518	614	847	850	Moody	449	454	614	902	905
Perkins	464	469	635	791	849	Potter	449	518	614	765	821
Roberts	449	514	614	857	860	Sanborn	449	518	614	905	989
Shannon	449	500	614	817	845	Spink	496	518	614	905	908
Stanley	509	515	696	1026	1074	Sully	490	496	670	834	895
Todd	449	455	614	765	821	Tripp	449	454	614	832	835
Walworth	449	518	614	905	908	Yankton	443	459	621	867	1035
Ziebach	449	477	614	897	1019						

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

TENNESSEE

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Chattanooga, TN-GA MSA	484	584	727	989	1114	Hamilton, Marion, Sequatchie
Clarksville, TN-KY HMFA	473	540	704	933	1011	Montgomery
Cleveland, TN MSA	503	540	731	940	1211	Bradley, Polk
Hickman County, TN HMFA	414	423	572	843	991	Hickman
Jackson, TN MSA	450	592	756	1008	1101	Chester, Madison
Johnson City, TN MSA	439	521	654	894	1122	Carter, Unicoi, Washington
Kingsport-Bristol-Bristol, TN-VA MSA	439	487	626	819	927	Hawkins, Sullivan
Knoxville, TN MSA	471	601	741	990	1112	Anderson, Blount, Knox, Loudon, Union
Macon County, TN HMFA	413	421	570	710	762	Macon
Memphis, TN-MS-AR HMFA	567	648	768	1049	1170	Fayette, Shelby, Tipton
Morristown, TN MSA	421	465	611	819	958	Grainger, Hamblen, Jefferson
Nashville-Davidson--Murfreesboro--Franklin, TN MSA	593	684	819	1089	1168	Cannon, Cheatham, Davidson, Dickson, Robertson, Rutherford, Sumner, Trousdale, Williamson, Wilson
Smith County, TN HMFA	404	424	570	773	795	Smith
Stewart County, TN HMFA	413	472	614	843	882	Stewart

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Bedford	417	517	613	864	1023
Bledsoe	387	435	570	710	806
Carroll	387	421	570	710	871
Clay	387	421	570	840	844
Coffee	393	474	629	863	919
Cumberland	400	492	588	736	786
DeKalb	387	421	570	832	835
Fentress	387	421	570	726	795
Gibson	457	459	570	780	783
Greene	387	476	570	757	768
Hancock	387	429	570	782	1010
Hardin	400	435	589	737	1043
Henderson	421	458	620	772	829
Houston	339	421	570	719	762
Jackson	387	421	570	840	843
Lake	445	448	570	840	917
Lawrence	387	440	570	710	787
Lincoln	387	435	570	710	958
McNairy	362	421	570	710	767
Maury	476	480	637	855	977
Monroe	387	432	570	763	806
Morgan	402	466	591	736	906
Overton	387	424	570	840	1010
Pickett	387	435	570	710	806
Rhea	460	465	570	762	785
Scott	403	481	570	801	1010
Van Buren	387	435	570	710	806

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Benton	387	421	570	840	1010
Campbell	387	457	570	748	1010
Claiborne	352	476	570	710	1010
Cocke	387	468	570	824	827
Crockett	387	481	570	720	877
Decatur	387	481	570	743	951
Dyer	451	454	614	828	831
Franklin	405	441	596	796	799
Giles	399	495	587	842	845
Grundy	387	439	570	840	843
Hardeman	387	481	570	717	935
Haywood	376	533	632	787	845
Henry	394	488	579	721	1025
Humphreys	387	481	570	746	762
Johnson	389	424	573	714	766
Lauderdale	387	421	570	808	1000
Lewis	387	481	570	840	1010
McMinn	356	499	599	788	901
Marshall	455	494	669	852	905
Meigs	387	435	570	840	843
Moore	387	435	570	764	806
Obion	372	421	570	711	762
Perry	387	481	570	710	806
Putnam	405	458	597	854	937
Roane	415	452	611	834	837
Sevier	461	508	678	844	1088
Warren	387	421	570	822	1010

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

TENNESSEE continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Wayne	387	421	570	831	1010
White	402	437	591	767	790

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Weakley	426	450	570	796	800

TEXAS

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Abilene, TX MSA	526	604	814	1031	1314	Callahan, Jones, Taylor
Amarillo, TX MSA	488	576	757	1033	1081	Armstrong, Carson, Potter, Randall
Aransas County, TX HMFA	457	545	738	1087	1150	Aransas
Atascosa County, TX HMFA	419	538	705	944	1073	Atascosa
Austin County, TX HMFA	467	528	694	1023	1171	Austin
*Austin-Round Rock-San Marcos, TX MSA	681	834	1050	1421	1723	Bastrop, Caldwell, Hays, Travis, Williamson
Beaumont-Port Arthur, TX MSA	513	643	797	1045	1065	Hardin, Jefferson, Orange
Brazoria County, TX HMFA	652	656	843	1162	1434	Brazoria
Brownsville-Harlingen, TX MSA	443	524	653	855	950	Cameron
Calhoun County, TX HMFA	499	502	679	848	1066	Calhoun
College Station-Bryan, TX MSA	674	679	837	1210	1451	Brazos, Burleson, Robertson
Corpus Christi, TX HMFA	551	661	847	1122	1319	Nueces, San Patricio
Dallas, TX HMFA	585	701	887	1183	1429	Collin, Dallas, Delta, Denton, Ellis, Hunt, Kaufman, Rockwall
El Paso, TX MSA	523	572	706	1001	1200	El Paso
*Fort Worth-Arlington, TX HMFA	610	714	924	1239	1475	Johnson, Parker, Tarrant
*Houston-Baytown-Sugar Land, TX HMFA	636	765	945	1290	1595	Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, San Jacinto, Waller
Kendall County, TX HMFA	576	769	912	1344	1615	Kendall
Killeen-Temple-Fort Hood, TX HMFA	580	595	792	1167	1324	Bell, Coryell
Lampasas County, TX HMFA	470	541	642	946	1057	Lampasas
Laredo, TX MSA	543	586	736	967	1001	Webb
Longview, TX HMFA	637	642	788	981	1261	Gregg, Upshur
Lubbock, TX MSA	482	562	738	1077	1241	Crosby, Lubbock
McAllen-Edinburg-Mission, TX MSA	441	501	652	812	991	Hidalgo
Medina County, TX HMFA	459	511	692	914	990	Medina
Midland, TX MSA	557	719	937	1167	1295	Midland
Odessa, TX MSA	487	564	726	924	970	Ector
Rusk County, TX HMFA	501	505	681	900	1089	Rusk
San Angelo, TX MSA	460	537	717	995	1066	Irion, Tom Green
San Antonio-New Braunfels, TX HMFA	550	693	870	1134	1244	Bandera, Bexar, Comal, Guadalupe, Wilson
Sherman-Denison, TX MSA	499	626	809	1089	1386	Grayson
Texarkana, TX-Texarkana, AR MSA	447	579	712	887	952	Bowie
Tyler, TX MSA	567	665	789	1047	1054	Smith
Victoria, TX HMFA	535	570	721	898	1150	Goliad, Victoria
Waco, TX MSA	477	560	758	993	1110	McLennan
Wichita Falls, TX MSA	411	552	690	977	1119	Archer, Clay, Wichita
Wise County, TX HMFA	478	594	803	1000	1073	Wise

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Anderson	491	585	693	905	1227
Angelina	616	673	815	1066	1201
Baylor	446	466	630	785	914

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Andrews	466	510	658	970	973
Bailey	448	492	633	788	918
Bee	519	531	642	946	1040

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

TEXAS continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Blanco	607	634	858	1069	1147
Bosque	443	482	626	919	1035
Briscoe	443	486	626	835	908
Brown	416	517	699	897	1238
Camp	443	528	626	809	923
Castro	447	533	632	787	911
Childress	498	594	704	877	1021
Coke	372	463	626	780	908
Collingsworth	443	486	626	922	926
Comanche	443	463	626	780	908
Cooke	567	592	801	1046	1070
Crane	627	688	886	1103	1285
Culberson	443	486	626	896	908
Dawson	443	521	626	922	926
DeWitt	460	463	626	780	908
Dimmit	443	528	626	780	837
Duval	462	550	652	812	946
Edwards	473	519	668	832	969
Falls	421	463	626	864	867
Fayette	516	539	729	920	974
Floyd	443	528	626	922	1079
Franklin	443	463	626	922	1109
Frio	443	528	626	922	1109
Garza	443	528	626	922	926
Glasscock	471	517	665	828	965
Gray	450	496	636	798	1010
Hale	457	491	626	852	1039
Hamilton	443	463	626	922	926
Hardeman	559	613	789	983	1145
Hartley	443	463	626	869	908
Hemphill	516	601	729	908	1057
Hill	500	522	706	958	1019
Hood	642	647	875	1171	1239
Houston	376	467	632	903	906
Hudspeth	443	486	626	922	926
Jack	457	545	646	805	1144
Jasper	479	526	677	843	905
Jim Hogg	443	528	626	794	908
Karnes	506	528	626	922	1109
Kent	546	599	771	960	1118
Kimble	461	481	651	811	870
Kinney	443	479	626	922	926
Borden	471	517	665	828	965
Brewster	560	564	763	950	1107
Brooks	443	528	626	922	926
Burnet	476	497	672	990	1190
Cass	443	491	626	862	1109
Cherokee	443	521	626	813	874
Cochran	443	463	626	922	926
Coleman	443	463	626	922	1109
Colorado	438	494	669	960	1184
Concho	733	766	1036	1290	1503
Cottle	471	540	665	980	983
Crockett	455	475	643	948	951
Dallam	485	578	685	1000	1004
Deaf Smith	462	482	652	908	912
Dickens	461	506	651	811	944
Donley	459	480	649	808	941
Eastland	460	463	626	780	1101
Erath	533	537	705	947	950
Fannin	400	497	673	925	1090
Fisher	443	463	626	922	926
Foard	443	486	626	922	926
Freestone	460	571	773	963	1121
Gaines	443	463	626	880	937
Gillespie	634	662	895	1115	1585
Gonzales	460	463	626	922	928
Grimes	452	511	639	852	927
Hall	418	486	626	922	926
Hansford	447	532	631	834	938
Harrison	435	553	690	905	922
Haskell	443	486	626	922	926
Henderson	650	657	805	1055	1302
Hockley	518	543	732	912	978
Hopkins	517	520	704	903	1136
Howard	402	499	675	875	1002
Hutchinson	474	528	670	850	895
Jackson	406	536	682	924	1208
Jeff Davis	443	528	626	835	908
Jim Wells	527	572	745	928	996
Kenedy	545	598	770	1027	1117
Kerr	643	647	819	1158	1162
King	471	517	665	828	965
Kleberg	552	556	752	1032	1332

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

TEXAS continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Knox	443	486	626	780	837
Lamb	443	528	626	836	1008
Lavaca	397	463	626	898	908
Leon	447	479	631	820	985
Lipscomb	489	511	691	861	923
Llano	450	469	635	936	939
Lynn	443	528	626	922	926
McMullen	471	517	665	980	983
Marion	479	500	676	842	981
Mason	443	486	626	922	926
Maverick	414	528	626	890	908
Milam	443	494	626	922	1109
Mitchell	443	528	626	900	1109
Moore	536	539	665	828	1103
Motley	443	486	626	780	908
Navarro	568	572	750	941	1007
Nolan	443	528	626	922	1109
Oldham	485	578	685	1009	1213
Panola	443	463	626	799	1109
Pecos	450	517	626	828	1109
Presidio	443	528	626	922	926
Reagan	469	538	663	827	962
Red River	443	463	626	820	1109
Refugio	476	497	673	963	976
Runnels	443	528	626	922	1109
San Augustine	460	463	626	780	1081
Schleicher	469	489	662	824	960
Shackelford	443	486	626	922	926
Sherman	443	528	626	865	908
Starr	443	463	626	780	998
Sterling	509	606	719	1031	1043
Sutton	443	510	626	801	908
Terrell	469	558	662	883	960
Throckmorton	443	486	626	922	926
Trinity	443	522	626	922	1109
Upton	443	528	626	849	908
Val Verde	476	486	657	952	955
Walker	495	605	717	974	978
Washington	592	698	835	1063	1116
Wheeler	443	528	626	900	908
Willacy	443	463	626	830	1109
Wood	493	497	672	903	1146

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Lamar	446	531	630	918	1092
La Salle	443	463	626	922	926
Lee	450	536	635	936	939
Limestone	499	531	705	993	1001
Live Oak	513	611	725	903	969
Loving	471	517	665	887	965
McCulloch	443	463	626	910	914
Madison	443	528	626	922	926
Martin	522	622	737	918	1069
Matagorda	415	515	697	944	1234
Menard	443	467	626	849	908
Mills	443	488	626	922	1109
Montague	469	489	662	932	935
Morris	443	470	626	897	908
Nacogdoches	593	614	771	960	1030
Newton	443	519	626	780	837
Ochiltree	443	528	626	882	908
Palo Pinto	484	551	745	998	1047
Parmer	443	528	626	821	1059
Polk	455	466	626	917	1055
Rains	443	463	626	922	926
Real	443	463	626	922	926
Reeves	443	498	626	922	1109
Roberts	471	517	665	828	965
Sabine	443	528	626	922	926
San Saba	443	463	626	851	1109
Scurry	460	463	626	922	926
Shelby	443	463	626	780	908
Somervell	443	528	626	922	1109
Stephens	467	488	660	862	957
Stonewall	443	497	626	915	918
Swisher	443	463	626	841	908
Terry	443	478	626	802	908
Titus	377	495	633	793	911
Tyler	461	504	651	959	963
Uvalde	510	562	666	915	966
Van Zandt	517	540	730	945	976
Ward	443	528	626	780	837
Wharton	430	534	723	955	966
Wilbarger	496	517	700	951	1015
Winkler	457	477	645	950	954
Yoakum	476	523	673	911	976

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

TEXAS continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Young	428	531	719	922	961
Zavala	443	528	626	922	926
Zapata	443	463	626	780	908

UTAH

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Logan, UT-ID MSA	473	476	631	908	1108	Cache
Ogden-Clearfield, UT MSA	473	579	759	1070	1285	Davis, Morgan, Weber
Provo-Orem, UT MSA	483	617	737	1066	1305	Juab, Utah
Salt Lake City, UT HMFA	564	677	839	1197	1408	Salt Lake
St. George, UT MSA	518	595	782	1073	1378	Washington
Summit County, UT HMFA	619	681	921	1277	1282	Summit
Tooele County, UT HMFA	539	569	758	979	1242	Tooele

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Beaver	467	519	615	850	853
Carbon	466	469	615	766	871
Duchesne	486	540	640	943	1134
Garfield	479	482	648	807	938
Iron	435	543	644	907	1141
Millard	467	519	615	906	1065
Rich	699	776	920	1146	1436
Sanpete	464	467	615	766	822
Uintah	607	611	827	1117	1294
Wayne	467	519	615	874	986
Box Elder	467	519	615	906	1089
Daggett	602	669	793	988	1238
Emery	467	519	615	766	923
Grand	534	593	703	1036	1039
Kane	467	519	615	906	909
Piute	617	685	812	1011	1268
San Juan	467	519	615	830	833
Sevier	467	519	615	795	951
Wasatch	645	717	850	1253	1257

VERMONT

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Burlington-South Burlington, VT MSA	726	788	1029	1289	1513	Chittenden County towns of Bolton town, Buels gore, Burlington city, Charlotte town, Colchester town, Essex town, Hinesburg town, Huntington town, Jericho town, Milton town, Richmond town, St. George town, Shelburne town, South Burlington city, Underhill town, Westford town, Williston town, Winooski city Franklin County towns of Bakersfield town, Berkshire town, Enosburg town, Fairfax town, Fairfield town, Fletcher town, Franklin town, Georgia town, Highgate town, Montgomery town, Richford town, St. Albans city, St. Albans town, Sheldon town, Swanton town Grand Isle County towns of Alburg town, Grand Isle town, Isle La Motte town, North Hero town, South Hero town

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

VERMONT continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
Addison County, VT	742	807	957	1327	1604	Addison town, Bridport town, Bristol town, Cornwall town, Ferrisburgh town, Goshen town, Granville town, Hancock town, Leicester town, Lincoln town, Middlebury town, Monkton town, New Haven town, Orwell town, Panton town, Ripton town, Salisbury town, Shoreham town, Starksboro town, Vergennes city, Waltham town, Weybridge town, Whiting town
Bennington County, VT	579	749	939	1187	1322	Arlington town, Bennington town, Dorset town, Glastenbury town, Landgrove town, Manchester town, Peru town, Pownal town, Readsboro town, Rupert town, Sandgate town, Searsburg town, Shaftsbury town, Stamford town, Sunderland town, Winhall town, Woodford town
Caledonia County, VT	588	622	737	918	1122	Barnet town, Burke town, Danville town, Groton town, Hardwick town, Kirby town, Lyndon town, Newark town, Peacham town, Ryegate town, St. Johnsbury town, Sheffield town, Stannard town, Sutton town, Walden town, Waterford town, Wheelock town
Essex County, VT	577	636	754	939	1207	Averill town, Avery's gore, Bloomfield town, Brighton town, Brunswick town, Canaan town, Concord town, East Haven town, Ferdinand town, Granby town, Guildhall town, Lemington town, Lewis town, Lunenburg town, Maidstone town, Norton town, Victory town, Warner's grant, Warren's gore
Lamoille County, VT	659	796	992	1442	1746	Belvidere town, Cambridge town, Eden town, Elmore town, Hyde Park town, Johnson town, Morristown town, Stowe town, Waterville town, Wolcott town
Orange County, VT	559	785	940	1171	1665	Bradford town, Braintree town, Brookfield town, Chelsea town, Corinth town, Fairlee town, Newbury town, Orange town, Randolph town, Strafford town, Thetford town, Topsham town, Tunbridge town, Vershire town, Washington town, West Fairlee town, Williamstown town
Orleans County, VT	612	634	758	949	1028	Albany town, Barton town, Brownington town, Charleston town, Coventry town, Craftsbury town, Derby town, Glover town, Greensboro town, Holland town, Irasburg town, Jay town, Lowell town, Morgan town, Newport city, Newport town, Troy town, Westfield town, Westmore town
Rutland County, VT	645	712	902	1123	1370	Benson town, Brandon town, Castleton town, Chittenden town, Clarendon town, Danby town, Fair Haven town, Hubbardton town, Ira town, Killington town, Mendon town, Middletown Springs town, Mount Holly town, Mount Tabor town, Pawlet town, Pittsfield town, Pittsford town, Poultney town, Proctor town, Rutland city, Rutland town, Shrewsbury town, Sudbury town, Tinmouth town, Wallingford town, Wells town, West Haven town, West Rutland town
Washington County, VT	775	780	967	1227	1534	Barre city, Barre town, Berlin town, Cabot town, Calais town, Duxbury town, East Montpelier town, Fayston town, Marshfield town, Middlesex town, Montpelier city, Moretown town, Northfield town, Plainfield town, Roxbury town, Waitsfield town, Warren town, Waterbury town, Woodbury town, Worcester town
Windham County, VT	644	724	931	1178	1483	Athens town, Brattleboro town, Brookline town, Dover town,

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

VERMONT continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within nonmetropolitan counties
Windsor County, VT	784	789	1024	1297	1424	Dummerston town, Grafton town, Guilford town, Halifax town, Jamaica town, Londonderry town, Marlboro town, Newfane town, Putney town, Rockingham town, Somerset town, Stratton town, Townshend town, Vernon town, Wardsboro town, Westminster town, Whitingham town, Wilmington town, Windham town Andover town, Baltimore town, Barnard town, Bethel town, Bridgewater town, Cavendish town, Chester town, Hartford town, Hartland town, Ludlow town, Norwich town, Plymouth town, Pomfret town, Reading town, Rochester town, Royalton town, Sharon town, Springfield town, Stockbridge town, Weathersfield town, Weston town, West Windsor town, Windsor town, Woodstock town

VIRGINIA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Blacksburg-Christiansburg-Radford, VA HMFA	550	645	765	1071	1355	Montgomery, Radford city
Charlottesville, VA MSA	701	927	1099	1398	1586	Albemarle, Fluvanna, Greene, Nelson, Charlottesville city
Danville, VA MSA	401	510	626	887	890	Pittsylvania, Danville city
Franklin County, VA HMFA	441	504	637	813	966	Franklin
Giles County, VA HMFA	478	528	626	913	1036	Giles
Harrisonburg, VA MSA	565	568	741	941	1312	Rockingham, Harrisonburg city
Kingsport-Bristol-Bristol, TN-VA MSA	439	487	626	819	927	Scott, Washington, Bristol city
Louisa County, VA HMFA	579	608	721	1062	1066	Louisa
Lynchburg, VA MSA	544	595	726	929	1071	Amherst, Appomattox, Bedford, Campbell, Bedford city, Lynchburg city
Pulaski County, VA HMFA	509	531	630	803	995	Pulaski
*Richmond, VA HMFA	786	826	979	1287	1560	Amelia, Caroline, Charles, Chesterfield, Cumberland, Dinwiddie, Goochland, Hanover, Henrico, King and Queen, King William, New Kent, Powhatan, Prince George, Sussex, Colonial Heights city, Hopewell city, Petersburg city, Richmond city
Roanoke, VA HMFA	529	613	764	1001	1134	Botetourt, Craig, Roanoke, Roanoke city, Salem city
*Virginia Beach-Norfolk-Newport News, VA-NC MSA	918	944	1136	1570	1976	Gloucester, Isle of Wight, James, Mathews, Surry, York, Chesapeake city, Hampton city, Newport News city, Norfolk city, Poquoson city, Portsmouth city, Suffolk city, Virginia Beach city, Williamsburg city
Warren County, VA HMFA	661	666	886	1258	1262	Warren
Washington-Arlington-Alexandria, DC-VA-MD HMFA	1130	1191	1412	1890	2374	Arlington, Clarke, Fairfax, Fauquier, Loudoun, Prince William, Spotsylvania, Stafford, Alexandria city, Fairfax city, Falls Church city, Fredericksburg city, Manassas city, Manassas Park city
Winchester, VA-WV MSA	594	648	839	1141	1424	Frederick, Winchester city

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

VIRGINIA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Accomack	597	623	739	920	1175
Augusta	429	529	669	883	1171
Bland	506	528	626	780	1005
Buchanan	506	528	626	780	837
Carroll	506	528	626	847	1062
Culpeper	564	739	948	1397	1679
Essex	582	673	798	994	1281
Grayson	506	528	626	826	1109
Halifax	485	488	626	799	837
Highland	506	528	626	922	926
Lancaster	631	635	859	1070	1379
Lunenburg	484	487	659	821	881
Mecklenburg	506	528	626	826	902
Northampton	539	543	734	914	1236
Nottoway	584	610	723	994	998
Page	565	579	699	871	934
Prince Edward	552	556	735	947	982
Richmond	523	527	713	1051	1143
Russell	506	528	626	861	1005
Smyth	506	528	626	780	958
Tazewell	506	528	626	792	890
Wise	506	528	626	780	990
Buena Vista city	499	572	678	844	1184
Covington city	506	509	626	922	1005
Franklin city	585	588	777	968	1038
Lexington city	499	572	678	844	1184
Norton city	506	528	626	780	990
Waynesboro city	429	529	669	883	1171

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alleghany	506	509	626	922	1005
Bath	513	536	635	818	1020
Brunswick	479	482	652	812	1155
Buckingham	506	528	626	922	1109
Charlotte	486	489	626	847	851
Dickenson	460	463	626	780	837
Floyd	460	463	626	780	1005
Greensville	507	530	628	925	929
Henry	437	525	626	805	927
King George	725	730	987	1303	1540
Lee	506	515	626	780	1005
Madison	578	603	715	1054	1057
Middlesex	514	536	636	937	1126
Northumberland	575	579	750	1105	1109
Orange	674	679	918	1200	1626
Patrick	506	528	626	801	1005
Rappahannock	764	798	946	1388	1519
Rockbridge	499	572	678	844	1184
Shenandoah	459	632	761	1036	1313
Southampton	585	588	777	968	1038
Westmoreland	703	708	896	1143	1439
Wythe	473	476	626	804	1109
Clifton Forge city	506	509	626	922	1005
Emporia city	507	530	628	925	929
Galax city	506	528	626	847	1062
Martinsville city	437	525	626	805	927
Staunton city	429	529	669	883	1171

WASHINGTON

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bellingham, WA MSA	583	686	902	1306	1458	Whatcom
Bremerton-Silverdale, WA MSA	556	712	934	1341	1599	Kitsap
Kennewick-Pasco-Richland, WA MSA	526	602	770	1029	1327	Benton, Franklin
Lewiston, ID-WA MSA	402	509	657	850	1164	Asotin
Longview, WA MSA	441	575	707	1042	1252	Cowlitz
Mount Vernon-Anacortes, WA MSA	601	669	899	1262	1266	Skagit
Olympia, WA MSA	721	787	963	1394	1706	Thurston
Portland-Vancouver-Hillsboro, OR-WA MSA	659	766	912	1344	1615	Clark, Skamania
Seattle-Bellevue, WA HMFA	758	897	1104	1627	1955	King, Snohomish
Spokane, WA MSA	470	575	778	1113	1262	Spokane
Tacoma, WA HMFA	608	740	964	1421	1707	Pierce
Wenatchee-East Wenatchee, WA MSA	487	605	818	1030	1449	Chelan, Douglas

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

WASHINGTON continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Yakima, WA MSA	446	544	700	935	1128	Yakima

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	408	528	626	874	1024	Clallam	588	719	973	1397	1403
Columbia	414	470	636	913	1041	Ferry	462	538	638	940	1044
Garfield	408	528	626	780	1018	Grant	538	574	759	1026	1242
Grays Harbor	448	521	673	961	994	Island	552	670	875	1289	1349
Jefferson	566	704	952	1186	1686	Kittitas	554	612	828	1220	1467
Klickitat	479	620	735	920	1135	Lewis	527	623	830	1090	1260
Lincoln	470	534	722	899	965	Mason	524	650	879	1190	1194
Okanogan	488	545	679	863	1203	Pacific	445	603	748	1001	1171
Pend Oreille	409	508	687	904	1124	San Juan	731	735	938	1238	1254
Stevens	487	491	664	928	1176	Wahkiakum	455	516	698	869	1142
Walla Walla	496	562	760	1004	1346	Whitman	473	572	749	1104	1320

WEST VIRGINIA

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boone County, WV HMFA	426	429	577	719	860	Boone
Charleston, WV HMFA	466	523	624	821	930	Clay, Kanawha, Lincoln, Putnam
Cumberland, MD-WV MSA	451	533	632	860	980	Mineral
Huntington-Ashland, WV-KY-OH MSA	373	510	627	828	1017	Cabell, Wayne
Jefferson County, WV HMFA	629	666	901	1188	1233	Jefferson
Martinsburg, WV HMFA	466	533	708	914	946	Berkeley, Morgan
Morgantown, WV MSA	599	626	742	1000	1011	Monongalia, Preston
Parkersburg-Marietta-Vienna, WV-OH MSA	458	494	645	866	952	Pleasants, Wirt, Wood
Steubenville-Weirton, OH-WV MSA	433	500	615	824	944	Brooke, Hancock
Wheeling, WV-OH MSA	467	494	615	789	822	Marshall, Ohio
Winchester, VA-WV MSA	594	648	839	1141	1424	Hampshire

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Barbour	426	461	624	777	852	Braxton	373	434	587	731	809
Calhoun	451	480	577	719	814	Doddridge	445	448	606	755	871
Fayette	401	447	577	773	801	Gilmer	464	468	593	739	838
Grant	539	543	734	914	1300	Greenbrier	438	527	625	778	1033
Hardy	441	444	598	745	843	Harrison	456	459	586	759	796
Jackson	425	428	579	742	935	Lewis	434	437	591	736	790
Logan	466	487	577	817	820	McDowell	466	487	577	732	814
Marion	502	508	622	912	915	Mason	436	439	577	838	840
Mercer	448	451	577	719	771	Mingo	343	484	577	719	946
Monroe	451	487	577	719	814	Nicholas	451	487	577	768	881
Pendleton	451	487	577	850	853	Pocahontas	428	431	583	726	822
Raleigh	528	532	701	873	937	Randolph	459	462	577	820	1004

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING.

WEST VIRGINIA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Ritchie	451	487	577	816	819
Summers	462	475	590	775	788
Tucker	451	487	577	850	960
Upshur	451	454	587	788	828
Wetzel	451	458	577	850	1022
Roane	371	487	577	850	853
Taylor	411	484	577	841	844
Tyler	451	475	577	719	771
Webster	451	484	577	719	771
Wyoming	451	456	577	719	1022

WISCONSIN

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Appleton, WI MSA	405	530	681	1003	1062	Calumet, Outagamie
Columbia County, WI HMFA	492	544	736	1038	1106	Columbia
Duluth, MN-WI MSA	459	552	725	945	1052	Douglas
Eau Claire, WI MSA	442	514	658	969	1004	Chippewa, Eau Claire
Fond du Lac, WI MSA	402	502	670	855	1029	Fond du Lac
Green Bay, WI HMFA	425	517	685	978	1005	Brown, Kewaunee
Iowa County, WI HMFA	515	551	746	966	997	Iowa
Janesville, WI MSA	437	556	734	926	981	Rock
Kenosha County, WI HMFA	523	624	801	1163	1219	Kenosha
La Crosse, WI-MN MSA	416	520	699	972	1183	La Crosse
Madison, WI HMFA	614	734	889	1226	1366	Dane
Milwaukee-Waukesha-West Allis, WI MSA	535	659	828	1056	1142	Milwaukee, Ozaukee, Washington, Waukesha
Minneapolis-St. Paul-Bloomington, MN-WI MSA	592	736	920	1296	1529	Pierce, St. Croix
Oconto County, WI HMFA	456	505	626	894	897	Oconto
Oshkosh-Neenah, WI MSA	477	516	669	891	1185	Winnebago
Racine, WI MSA	539	543	733	961	980	Racine
Sheboygan, WI MSA	545	647	803	1054	1085	Sheboygan
Wausau, WI MSA	471	489	638	901	977	Marathon

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	397	528	626	848	978
Barron	389	506	654	817	1049
Buffalo	501	504	682	899	978
Clark	379	464	628	782	839
Dodge	433	555	728	928	973
Dunn	435	498	674	850	901
Forest	397	463	626	817	837
Green	450	524	709	883	963
Iron	372	463	626	853	1109
Jefferson	438	562	737	994	1108
Lafayette	397	480	626	852	915
Lincoln	399	465	629	927	1032
Marinette	480	483	626	897	1032
Menominee	433	505	683	851	913
Oneida	512	534	658	879	1165
Ashland	397	488	626	807	837
Bayfield	372	528	626	873	876
Burnett	419	535	661	974	977
Crawford	460	463	626	784	898
Door	434	599	730	957	976
Florence	397	474	626	780	865
Grant	429	476	626	796	970
Green Lake	397	486	626	856	1109
Jackson	372	463	626	780	837
Juneau	430	475	626	880	1109
Langlade	425	489	626	922	1109
Manitowoc	418	470	626	780	938
Marquette	418	519	702	874	938
Monroe	396	499	666	895	1010
Pepin	397	528	626	922	926

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

WISCONSIN continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Polk	441	548	742	985	992
Price	397	463	626	780	955
Rusk	460	463	626	830	1109
Sawyer	397	528	626	780	837
Taylor	372	463	626	780	837
Vernon	397	463	626	797	837
Walworth	562	616	817	1163	1191
Waupaca	492	496	663	879	909
Wood	417	483	626	838	928
Portage	409	509	684	852	933
Richland	449	509	626	809	1037
Sauk	532	589	772	967	1032
Shawano	460	463	626	862	993
Trempealeau	405	463	626	837	1020
Vilas	515	518	701	873	1117
Washburn	421	493	664	873	918
Waushara	475	478	647	825	865

WYOMING

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Casper, WY MSA	533	610	807	1189	1413	Natrona
Cheyenne, WY MSA	449	511	691	947	1110	Laramie

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Albany	577	601	776	1111	1178
Campbell	673	702	880	1108	1176
Converse	498	501	678	999	1002
Fremont	514	525	710	964	968
Hot Springs	479	528	626	922	1109
Lincoln	602	650	787	1160	1164
Park	498	551	696	994	1233
Sheridan	612	645	800	996	1417
Sweetwater	590	704	953	1187	1688
Uinta	505	508	677	947	1129
Weston	570	580	746	929	1138
Big Horn	460	463	626	877	897
Carbon	569	573	775	1036	1147
Crook	479	528	626	922	1109
Goshen	471	474	638	878	881
Johnson	502	537	657	968	1038
Niobrara	479	528	626	876	987
Platte	479	528	626	874	955
Sublette	709	782	927	1355	1360
Teton	776	922	1114	1642	1699
Washakie	479	528	626	887	1067

GUAM

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Pacific Islands	807	867	1058	1542	1843

PUERTO RICO

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Aguadilla-Isabela-San Sebastián, PR MSA	381	414	459	590	661	Aguada, Aguadilla, Añasco, Isabela, Lares, Moca, Rincón, San Sebastián
Arecibo, PR HMFA	401	436	484	660	773	Arecibo, Camuy, Hatillo
Barranquitas-Aibonito-Quebradillas, PR HMFA	395	427	475	605	695	Aibonito, Barranquitas, Ciales, Maunabo, Orocovis, Quebradillas
Caguas, PR HMFA	441	477	531	736	887	Caguas, Cayey, Cidra, Gurabo, San Lorenzo

SCHEDULE B - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING

PUERTO RICO continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Fajardo, PR MSA	457	497	552	803	968	Ceiba, Fajardo, Luquillo
Guayama, PR MSA	403	435	484	687	851	Arroyo, Guayama, Patillas
Mayagüez, PR MSA	432	469	521	623	860	Hormigueros, Mayagüez
Ponce, PR MSA	467	507	561	779	889	Juana Díaz, Ponce, Villalba
San Germán-Cabo Rojo, PR MSA	376	391	453	593	639	Cabo Rojo, Lajas, Sabana Grande, San Germán
San Juan-Guaynabo, PR HMFA	484	526	584	773	915	Aguas Buenas, Barceloneta, Bayamón, Canóvanas, Carolina, Cataño, Comerío, Corozal, Dorado, Florida, Guaynabo, Humacao, Juncos, Las Piedras, Loíza, Manatí, Morovis, Naguabo, Naranjito, Río Grande, San Juan, Toa Alta, Toa Baja, Trujillo Alto, Vega Alta, Vega Baja, Yabucoa
Yauco, PR MSA	373	394	448	564	719	Guánica, Guayanilla, Peñuelas, Yauco

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adjuntas	372	402	448	614	666
Culebra	372	402	448	614	666
Las Marías	372	402	448	614	666
Salinas	372	402	448	614	666
Utuado	372	402	448	614	666

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Coamo	372	402	448	614	666
Jayuya	372	402	448	614	666
Maricao	372	402	448	614	666
Santa Isabel	372	402	448	614	666
Vieques	372	402	448	614	666

VIRGIN ISLANDS

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
St. Croix	589	614	744	929	1063
St. Thomas	670	800	1030	1276	1334

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
St. John	670	800	1030	1276	1334

Note1: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.
Note2: 50th percentile FMRs are indicated by an * before the FMR Area name.
Note3: FMR areas designated by 3 asterisks (***) are part of the Small Area Demonstration Program and will use the FMRs found on Schedule B Addendum.

09/12/2012

SCHEDULE B Addendum - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING WITHIN THE DALLAS, TX HMFA

Collin County

ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR
75002	750	900	1140	1520	1840
75013	760	910	1150	1530	1850
75024	680	810	1030	1370	1660
75026	660	790	1000	1330	1610
75034	730	870	1100	1470	1770
75048	740	890	1120	1490	1800
75070	840	1000	1270	1690	2050
75074	630	750	950	1270	1530
75078	740	890	1120	1490	1800
75082	730	880	1110	1480	1790
75093	680	810	1030	1370	1660
75098	730	880	1110	1480	1790
75166	880	1050	1330	1770	2140
75189	670	800	1010	1350	1630
75287	570	680	860	1150	1390
75407	670	800	1010	1350	1630
75424	630	750	950	1270	1530
75452	530	630	800	1070	1290
75491	660	790	1000	1330	1610

ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR
75009	610	730	920	1230	1480
75023	700	840	1060	1410	1710
75025	750	900	1140	1520	1840
75033	620	740	940	1250	1510
75035	860	1040	1310	1750	2110
75069	590	700	890	1190	1430
75071	620	740	940	1250	1510
75075	640	770	970	1290	1560
75080	690	830	1050	1400	1690
75086	660	790	1000	1330	1610
75094	880	1050	1330	1770	2140
75164	550	660	840	1120	1350
75173	730	880	1110	1480	1790
75252	530	640	810	1080	1300
75370	660	790	1000	1330	1610
75409	630	760	960	1280	1550
75442	540	650	820	1090	1320
75454	730	880	1110	1480	1790
75495	560	670	850	1130	1370

Dallas County

ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR
75001	620	740	940	1250	1510
75007	650	780	990	1320	1590
75014	570	690	870	1160	1400
75016	570	690	870	1160	1400
75019	740	890	1120	1490	1800
75038	580	700	880	1170	1420
75040	730	870	1100	1470	1770
75042	550	660	840	1120	1350
75044	670	810	1020	1360	1640
75046	570	690	870	1160	1400
75048	740	890	1120	1490	1800
75050	550	660	830	1110	1340
75052	710	850	1080	1440	1740
75060	530	640	810	1080	1300
75062	550	660	840	1120	1350
75080	690	830	1050	1400	1690
75082	730	880	1110	1480	1790
75085	570	690	870	1160	1400
75089	880	1050	1330	1770	2140
75106	570	690	870	1160	1400

ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR
75006	590	710	900	1200	1450
75011	570	690	870	1160	1400
75015	570	690	870	1160	1400
75017	570	690	870	1160	1400
75030	570	690	870	1160	1400
75039	720	860	1090	1450	1760
75041	580	700	880	1170	1420
75043	610	740	930	1240	1500
75045	570	690	870	1160	1400
75047	570	690	870	1160	1400
75049	570	690	870	1160	1400
75051	540	650	820	1090	1320
75053	570	690	870	1160	1400
75061	500	600	760	1010	1220
75063	670	810	1020	1360	1640
75081	710	850	1070	1430	1720
75083	570	690	870	1160	1400
75088	840	1010	1280	1710	2060
75104	760	910	1150	1530	1850
75115	610	730	920	1230	1480

SCHEDULE B Addendum - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING WITHIN THE DALLAS, TX HMFA

Dallas County continued

ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR	ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR
75116	610	740	930	1240	1500	75123	570	690	870	1160	1400
75134	610	730	920	1230	1480	75137	750	900	1140	1520	1840
75138	570	690	870	1160	1400	75141	550	660	830	1110	1340
75146	600	720	910	1210	1470	75149	650	770	980	1310	1580
75150	610	730	920	1230	1480	75154	730	880	1110	1480	1790
75159	610	730	920	1230	1480	75172	470	570	720	960	1160
75180	540	650	820	1090	1320	75181	880	1050	1330	1770	2140
75182	570	690	870	1160	1400	75185	570	690	870	1160	1400
75187	570	690	870	1160	1400	75201	820	990	1250	1670	2010
75202	880	1050	1330	1770	2140	75203	440	530	670	890	1080
75204	750	900	1140	1520	1840	75205	720	860	1090	1450	1760
75206	600	720	910	1210	1470	75207	580	700	880	1170	1420
75208	510	610	770	1030	1240	75209	750	890	1130	1510	1820
75210	440	530	670	890	1080	75211	520	620	790	1050	1270
75212	510	610	770	1030	1240	75214	550	660	830	1110	1340
75215	480	580	730	970	1180	75216	510	620	780	1040	1260
75217	570	680	860	1150	1390	75218	650	770	980	1310	1580
75219	590	710	900	1200	1450	75220	490	590	740	990	1190
75221	570	690	870	1160	1400	75222	570	690	870	1160	1400
75223	530	630	800	1070	1290	75224	490	590	750	1000	1210
75225	880	1050	1330	1770	2140	75226	700	840	1060	1410	1710
75227	530	640	810	1080	1300	75228	470	560	710	950	1140
75229	550	660	840	1120	1350	75230	490	590	740	990	1190
75231	470	560	710	950	1140	75232	520	620	790	1050	1270
75233	550	660	830	1110	1340	75234	590	700	890	1190	1430
75235	570	690	870	1160	1400	75236	560	670	850	1130	1370
75237	520	620	790	1050	1270	75238	500	600	760	1010	1220
75240	530	630	800	1070	1290	75241	610	740	930	1240	1500
75242	570	690	870	1160	1400	75243	510	610	770	1030	1240
75244	740	890	1120	1490	1800	75246	440	530	670	890	1080
75247	480	580	730	970	1180	75248	640	770	970	1290	1560
75249	720	860	1090	1450	1760	75250	570	690	870	1160	1400
75251	780	930	1180	1570	1900	75253	550	660	840	1120	1350
75254	580	700	880	1170	1420	75313	570	690	870	1160	1400
75315	570	690	870	1160	1400	75342	570	690	870	1160	1400
75354	570	690	870	1160	1400	75355	570	690	870	1160	1400
75356	570	690	870	1160	1400	75360	570	690	870	1160	1400
75367	570	690	870	1160	1400	75371	570	690	870	1160	1400
75372	570	690	870	1160	1400	75374	570	690	870	1160	1400
75378	570	690	870	1160	1400	75379	570	690	870	1160	1400
75380	570	690	870	1160	1400	75381	570	690	870	1160	1400
75382	570	690	870	1160	1400						

SCHEDULE B Addendum - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING WITHIN THE DALLAS, TX HMFA

Delta County

ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR
75415	540	650	820	1090	1320
75441	540	650	820	1090	1320
75450	540	650	820	1090	1320

Denton County

ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR
75007	650	780	990	1320	1590
75010	740	890	1120	1490	1800
75027	610	730	920	1230	1480
75029	610	730	920	1230	1480
75034	730	870	1100	1470	1770
75057	610	730	920	1230	1480
75067	610	730	920	1230	1480
75077	770	930	1170	1560	1880
75287	570	680	860	1150	1390
76177	580	700	880	1170	1420
76202	610	730	920	1230	1480
76206	610	730	920	1230	1480
76208	610	740	930	1240	1500
76210	710	850	1080	1440	1740
76227	820	990	1250	1670	2010
76249	740	890	1120	1490	1800
76259	620	740	940	1250	1510
76266	620	740	940	1250	1510

Ellis County

ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR
75101	530	640	810	1080	1300
75125	540	650	820	1090	1320
75154	730	880	1110	1480	1790
75167	740	890	1120	1490	1800
76041	590	700	890	1190	1430
76064	670	810	1020	1360	1640
76084	600	720	910	1210	1470
76651	660	790	1000	1330	1610

Hunt County

ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR
75135	530	640	810	1080	1300
75169	490	590	740	990	1190
75432	510	620	780	1040	1260
75448	540	650	820	1090	1320
75469	540	650	820	1090	1320

ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR
75009	610	730	920	1230	1480
75022	750	900	1140	1520	1840
75028	880	1050	1330	1770	2140
75033	620	740	940	1250	1510
75056	790	950	1200	1600	1930
75065	650	780	990	1320	1590
75068	710	850	1070	1430	1720
75093	680	810	1030	1370	1660
76052	880	1050	1330	1770	2140
76201	460	550	700	930	1130
76205	570	680	860	1150	1390
76207	550	660	830	1110	1340
76209	560	670	850	1130	1370
76226	880	1050	1330	1770	2140
76247	700	840	1060	1410	1710
76258	560	670	850	1130	1370
76262	710	850	1070	1430	1720
76272	610	730	920	1230	1480

ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR
75119	540	650	820	1090	1320
75152	480	580	730	970	1180
75165	590	710	900	1200	1450
75168	590	700	890	1190	1430
76055	590	700	890	1190	1430
76065	620	740	940	1250	1510
76623	590	700	890	1190	1430
76670	470	560	710	950	1140

ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR
75160	570	680	860	1150	1390
75189	670	800	1010	1350	1630

SCHEDULE B Addendum - FY 2013 FINAL FAIR MARKET RENTS FOR EXISTING HOUSING WITHIN THE DALLAS, TX HMFA

Hunt County continued

ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR
75401	480	580	730	970	1180
75403	480	580	730	970	1180
75422	510	610	770	1030	1240
75428	400	470	600	800	970
75449	400	480	610	810	980
75453	650	770	980	1310	1580
75496	380	450	570	760	920
75402	500	600	760	1010	1220
75404	480	580	730	970	1180
75423	510	620	780	1040	1260
75442	540	650	820	1090	1320
75452	530	630	800	1070	1290
75474	440	530	670	890	1080

Kaufman County

ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR
75114	730	870	1100	1470	1770
75142	530	640	810	1080	1300
75147	500	600	760	1010	1220
75157	430	510	650	870	1050
75159	610	730	920	1230	1480
75161	570	690	870	1160	1400
75126	880	1050	1330	1770	2140
75143	510	610	770	1030	1240
75156	560	670	850	1130	1370
75158	510	620	780	1040	1260
75160	570	680	860	1150	1390

Rockwall County

ZIP Codes	0 BR	1 BR	2 BR	3 BR	4 BR
75032	810	970	1230	1640	1980
75088	840	1010	1280	1710	2060
75132	760	920	1160	1550	1870
75087	750	890	1130	1510	1820
75089	880	1050	1330	1770	2140
75189	670	800	1010	1350	1630

SCHEDULE D - FY 2013 FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES IN THE SECTION 8 HOUSING CHOICE VOUCHER PROGRAM

State	Area Name	Space Rent
California	*Orange County, CA HUD Metro FMR Area	$801
	*Riverside-San Bernardino-Ontario, CA MSA	$521
	Los Angeles-Long Beach, CA HUD Metro FMR	$660
	San Diego-Carlsbad-San Marcos, CA MSA	$804
	Santa Rosa-Petaluma, CA MSA	$708
	Vallejo-Fairfield, CA MSA	$570
Colorado	Boulder, CO MSA	$466
Maryland	St. Mary's County	$490
Oregon	Bend, OR MSA	$351
	Salem, OR MSA	$488
Pennsylvania	Adams County	$561
Washington	Olympia, WA MSA	$578
	Seattle-Bellevue, WA HUD Metro FMR Area	$635
West Virginia	Logan County	$444
	McDowell County	$444
	Mercer County	$444
	Mingo County	$444
	Wyoming County	$444

*** 50th percentile FMR areas.**

[FR Doc. 2012–24618 Filed 10–4–12; 8:45 am]
BILLING CODE 4210–67–C

Reader Aids

Federal Register

Vol. 77, No. 194

Friday, October 5, 2012

CUSTOMER SERVICE AND INFORMATION

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**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.fdsys.gov.**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **www.ofr.gov.**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, 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.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

Reminders. Effective January 1, 2009, the Reminders, including Rules Going Into Effect and Comments Due Next Week, no longer appear in the Reader Aids section of the Federal Register. This information can be found online at **http://www.regulations.gov.**

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, OCTOBER

59709–60028 1
60029–60276 2
60277–60602 3
60603–60882 4
60883–61228 5

CFR PARTS AFFECTED DURING OCTOBER

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:
8871 60277
8872 60279
8873 60603
8874 60605
8875 60607
8876 60609
8877 60611
8878 60613
8879 60615
8880 60617

Executive Orders:
13627 60029

Administrative Orders:
Memorandums:
Memorandum of September 27, 2012 60035
Notices:
Notice of September 11, 2012 (corrected) 60037
Order of September 28, 2012 60281

5 CFR

1631 60039

7 CFR

301 59709
331 61056

9 CFR

121 61056

10 CFR

50 60039
429 ..... 59712, 59719
430 ..... 59712, 59719

12 CFR

611 60582
612 60582
619 60582
620 60582
630 60582

Proposed Rules:
45 60057
237 60057
324 60057
624 60057
1221 60057
1238 60948

14 CFR

29 60883
39 ..... 59726, 59728, 59732, 60285, 60288, 60296, 60887, 60889, 60891
97 ..... 59735, 59738
1204 60619
1212 60620

Proposed Rules:
39 ..... 59873, 60060, 60062, 60064, 60073, 60075, 60323, 60325, 60331, 60651, 60653, 60655, 60658
71 60660

18 CFR

357 59739
375 59745

19 CFR

Proposed Rules:
210 60952

20 CFR

655 60040

21 CFR

510 ..... 60301, 60622
520 60622
522 60301
524 60301
558 ..... 60301, 60622

23 CFR

Proposed Rules:
771 59875
1200 60956

25 CFR

36 60041
542 60625
543 60625

26 CFR

Proposed Rules:
1 ..... 59878, 60959
20 60960
25 60960

31 CFR

1010 59747

33 CFR

100 ..... 59749, 60302
117 60896
165 ..... 59749, 60042, 60044, 60897, 60899, 60901, 60904

Proposed Rules:
110 60081
165 60960

34 CFR

36 60047

36 CFR

7 60050

37 CFR

Proposed Rules:
201 60333

38 CFR

9.....60304

39 CFR

Proposed Rules:

111.....60334

40 CFR

9.....61118
52 .....59751, 59755, 60053, 60307, 60626, 60627, 60904, 60907, 60910, 60914, 60915
180.....60311, 60917
271.....60919
272.....59758
721.....61118

Proposed Rules:

2.....60902
52 .....59879, 60085, 60087, 60089, 60094, 60339, 60661
63.....60341
271.....60963
272.....59879

42 CFR

73.....61084
412.....60315
413.....60315
424.....60315
476.....60315

44 CFR

64.....59762, 59764
65.....59767

Proposed Rules:

67.....59880

45 CFR

162.....60629
2510.....60922
2522.....60922
2540.....60922
2551.....60922
2552.....60922

46 CFR

1.....59768
2.....59768
6.....59768
8.....59768
10.....59768
11.....59768
12.....59768
15.....59768
16.....59768
24.....59768
25.....59768
26.....59768
27.....59768
28.....59768
30.....59768
31.....59768
32.....59768
34.....59768
35.....59768
39.....59768
42.....59768
46.....59768
50.....59768
52.....59768
53.....59768
54.....59768
56.....59768
57.....59768
58.....59768
59.....59768
61.....59768
62.....59768
63.....59768
64.....59768
67.....59768
70.....59768
71.....59768
76.....59768
77.....59768
78.....59768
90.....59768
91.....59768
92.....59768
95.....59768
96.....59768
97.....59768
98.....59768
105.....59768
107.....59768
108.....59768
109.....59768
110.....59768
111.....59768
114.....59768
117.....59768
125.....59768
126.....59768
127.....59768
128.....59768
130.....59768
131.....59768
133.....59768
134.....59768
147.....59768
148.....59768
150.....59768
151.....59768
153.....59768
154.....59768
159.....59768
160.....59768
161.....59768
162.....59768
164.....59768
167.....59768
169.....59768
170.....59768
171.....59768
172.....59768
174.....59768
175.....59768
179.....59768
180.....59768
188.....59768
189.....59768
193.....59768
194.....59768
195.....59768
197.....59768
199.....59768
401.....59768

Proposed Rules:

7.....59881
8.....60096

47 CFR

0.....60934
64.....60630

Proposed Rules:

1.....60666
64.....60343
73.....59882

48 CFR

504.....59790
552.....59790

Proposed Rules:

53.....60343
1552.....60667

49 CFR

33.....59793
40.....60318
107.....60935
171.....60935
172.....60935
173.....60056, 60935
175.....60935
178.....60935
179.....60935
Ch. III.....59818, 59840
303.....59818
325.....59818
350.....59818
355.....59818
356.....59818
360.....59818
365.....59818
366.....59818
367.....59818
368.....59818
369.....59818
370.....59818
371.....59818
372.....59818
373.....59818
374.....59818
375.....59818
376.....59818
377.....59818
378.....59818
379.....59818
380.....59818
381.....59818
382.....59818
383.....59818
384.....59818
385.....59818
386.....59818
387.....59818
388.....59818
389.....59818
390.....59818
391.....59818
392.....59818
393.....59818
395.....59818
396.....59818
397.....59818
398.....59818
399.....59818
450.....59768
451.....59768
452.....59768
453.....59768
593.....59829

Proposed Rules:

622.....59875

50 CFR

17.....60750
229.....60319
300.....60631
600.....59842
622.....60945, 60946
635.....59842, 60632
665.....60637
679 .....59852, 60321, 60649

Proposed Rules:

17 .....60180, 60208, 60238, 60510, 60778, 60804
648.....59883

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.J. Res. 117/P.L. 112–175
Making continuing appropriations for fiscal year 2013, and for other puroses. (Sept. 28, 2012; 126 Stat. 1313)

S. 3245/P.L. 112–176
To extend by 3 years the authorization of the EB-5 Regional Center Program, the E-Verify Program, the Special Immigrant Nonminister Religious Worker Program, and the Conrad State 30 J-1 Visa Waiver Program. (Sept. 28, 2012; 126 Stat. 1325)

S. 3552/P.L. 112–177
Pesticide Registration Improvement Extension Act of 2012 (Sept. 28, 2012; 126 Stat. 1327)

S. 3625/P.L. 112–178
To change the effective date for the internet publication of certain information to prevent harm to the national security or endangering the military officers and civilian employees to whom the publication requirement applies, and forother purposes. (Sept. 28, 2012; 126 Stat. 1408)

Last List September 24, 2012

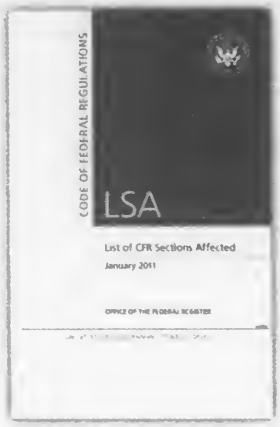
Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

Find the Information You Need Quickly with the List of Sections Affected

ORDER NOW!



The **List of CFR Sections Affected (LSA)** lists proposed, new, and amended Federal regulations published in the **Federal Register (FR)** since the most recent revision date of a **Code of Federal Regulations (CFR)** title. Each monthly **LSA** issue is cumulative and contains the **CFR** part and section numbers, a description of its status (e.g., amended, confirmed, revised), and the **FR** page number for the change.

You can purchase a subscription of the **LSA** as part of a subscription to the **FR** using the order from below, or via the U.S. Government Online Bookstore at:

http://bookstore.gpo.gov/actions/GetPublication.do?stocknumber=769-004-00000-9

To order a subscription to the **LSA** only, use the order form or go to the U.S. Online Bookstore at:

http://bookstore.gpo.gov/actions/GetPublication.Do?stocknumber=769-001-00000-0

GPO U.S. GOVERNMENT PRINTING OFFICE
KEEPING AMERICA INFORMED

Order Processing Code: 3572

Easy Secure Internet: bookstore.gpo.gov

Toll Free: 866 512-1800
DC Area: 202 512-1800
Fax: 202 512-2104

Mail: US Government Printing Office
P.O. Box 979050
St. Louis, MO 63197-9000

Qty	Stock Number	Publication Title	Unit Price	Total Price
	769-001-00000-0	List of CFR Sections Affected (LSA)	$35.00	
			Total Order	

Personal name (Please type or print)

Company name

Street address

City, State, Zip code

Daytime phone including area code

Check Method of Payment

❑ Check payable to *Superintendent of Documents*

❑ SOD Deposit Account ☐☐☐☐☐☐☐ — ☐

❑ VISA ❑ MasterCard ❑ Discover/NOVUS ❑ American Express

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (expiration date)

Thank you for your order!

AUTHORIZING SIGNATURE

01/11

Printed on recycled paper
with vegetable-based ink